

UNITED STATES DEPARTMENT OF AGRICULTURE

NATIONAL ORGANIC PROGRAM

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NATIONAL ORGANIC STANDARDS BOARD

MEETING

+ + + + +

TUESDAY,

OCTOBER 16, 2001

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WASHINGTON, D.C.

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The meeting came to order at 8:30 a.m. in the Cafeteria Conference Room, USDA Headquarters, 12th Street and Independence Avenue, S.W., Washington, D.C., Carolyn Brickey, Chair, presiding.

MEMBERS PRESENT:

CAROLYN BRICKEY, Chair
DAVID CARTER
KIM M. BURTON
OWUSU A. BANDELE
GOLDIE CAUGHLIN
REBECCA J. GOLDBURG
JAMES RIDDLE
ERIC SIDEMAN

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MEMBERS PRESENT (CONT'D):

RICHARD H. MATHEWS
STEVE HARPER
MARK KING
ROSALIE KOENIG
WILLIAM LOCKERETZ
BOB ANDERSON, Former NOSB Chair
GEORGE SIEMON

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P-R-O-C-E-E-D-I-N-G-S

(8:48 a.m.)

CHAIR BRICKEY: Okay. Good morning, everyone. Let's get started on Day Two of the National Organic Standards Board Meeting. Our first discussion and presentation this morning will be about the recommendations of the Board Task Force on Aquatic and Wild Species. Bob Anderson chaired this August group, so he will be giving us a report.

MR. ANDERSON: Good morning. As you all know, the task force was empaneled over a year ago. The intent of the task force was to review the mention in OFPA of standards and, in fact, to look at the potential for creating a task force -- or not a task force but standards for aquatic species.

We essentially have pulled together a task force of the Board and, as we reviewed it, several things were very clear to us. One is that for this to be an open and a forthright process and to do justice to this very important industry it was important for us to reach outside of the Board and the expertise of the Board and to establish -- to find the

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1 people in the industry who were going to use -- who
2 were dramatically affected and interested in this
3 process of developing standards for fish.

4 The task force of the Board originally
5 consisted of myself as chair, Carolyn Brickey, Rebecca
6 Goldberg, Steve Harper, Willie Lockeretz, Eric Sideman
7 and then Jim Riddle joined us as he came onto the
8 Board.

9 In our very first meeting, it was again
10 clear to us that wild and aquaculture or wild-caught
11 species and farm-raised species -- so if I interchange
12 those terms that's what they mean, and if I use "fish"
13 it means everybody, everything -- that we needed to
14 break those out because they were very different.
15 While there were many similarities, they were very
16 different in their application and how to approach it.

17 So as the task force discussed it we
18 decided to, after breaking it out into wild and
19 aquaculture, we developed two working groups, a wild
20 species group chaired by Miles MacElvoy from the
21 Washington Department of Agriculture, and an
22 aquaculture group chaired by Margaret Whittenberg, a

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1 former NOSB member, now with Whole Foods Markets.

2 We recruited far and wide to get people
3 to join this committee. There was great participation
4 on the aquaculture side and actually many, many people
5 who expressed interest. On the wild side, we really
6 found it difficult initially to find people who were
7 willing and able to participate in the process, and we
8 really did a lot of grassroots recruiting.

9 In the end we put together what I believe
10 were blue ribbon panels that represented not only the
11 fisheries but the fishermen, the people who actually
12 work the water, the people who process the fish and
13 the people who had interests in this, both from a
14 consumer standpoint and an organic standpoint, and the
15 waters standpoint.

16 So I just wanted to let everyone know who
17 is on these committees. As I said, the wild harvest
18 working group was chaired by Miles MacElvoy, and that
19 included Carolyn Brickey and Steve Harper and Willie
20 Lockeretz from this Board.

21 It also included Kathryn DeMateo from
22 the Organic Trade Association; Paul Paton from Alaska;

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1 David Gould of Oregon; and John Poppalardo from -- we
2 were also looking for some geographic diversity
3 -- from Massachusetts.

4 We had Chris Dorsett from New Orleans;
5 Jan Koenigsberg of Anchorage, Alaska; Zeke Grater from
6 San Francisco; Jim Riddle of Winona; and Jim Humphreys
7 from Seattle. Very diverse and very mixed expertise
8 there, not mixed but diverse expertise of people who
9 were literally working the oceans and involved in all
10 ways, including policy.

11 The aquaculture group was chaired by
12 Margaret Whittenberg. She's vice president of
13 governmental affairs for Whole Foods Market, and it
14 included, from the Board, Becky Goldberg and Eric
15 Sideman; Dan Butterfield from Tuscaloosa; George
16 Lockwood of Carmel, California; Chris Duffey of
17 Portsmouth, New Hampshire; Richard Nelson of Murray,
18 Utah; Gary Formsell of Moscow, Idaho; John Hargraves
19 of Mississippi State; Robin Downey of Olympia,
20 Washington; and Deborah Brewster of St. Paul,
21 Minnesota.

22 And I will tell you that through the

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1 course of this, it would have taken something close to
2 a small pickup truck to bring the paperwork that was
3 generated electronically here. I've never --
4 actually, I had to upgrade my memory twice in this
5 process to take care of the amount of information that
6 was passed.

7 It was an extremely participatory process
8 that not only the work of the working group, but also
9 the NOP conducted hearings throughout the United
10 States, three hearings. We also reviewed the CODEX,
11 rulings on the development of CODEX processes, and
12 also the documents and the recommendations of the
13 Organic Trade Association in this consideration.

14 In reviewing this, it became important
15 for us to establish a criterion by which we were going
16 to literally review the Act and to go to what was in
17 fact the source authority for reviewing this, which is
18 OFPA.

19 So in that process we went to the
20 livestock section and we pulled out the critical
21 processes by which we were required to review both
22 wild-caught fish and aquaculture. And the key

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1 elements that we broke this down into in each category
2 were the origin of the stock, the feed, health care,
3 living conditions, and identification.

4 So as we looked at the -- let's
5 understand that OFPA provides the authority for
6 standards for the production of aquatic species and
7 identifies those elements as those that I just read:
8 the livestock origin, the feed ration, health care,
9 living conditions, and identification.

10 And OFPA does not contain specific
11 provisions for aquatic species or it doesn't address
12 how the standards should be developed, so in our case,
13 really, the only things we had to work with were the
14 background for terrestrial systems.

15 Our intent all along has been to intend
16 or recommend standards for the production of aquatic
17 animals that reflected an innovative approach and that
18 provided opportunities. I personally am very much a
19 fish eater, and I think that virtually everybody on
20 this committee was. And the more that we can do to
21 support fishing and the fishing industry and the
22 economies that support those, that was a goal for us.

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1 As we walk through this process, I will
2 give you just a brief overview of the findings. This
3 is very, very condensed so that we have lots of time
4 to discuss them. On the wild species we found first
5 that, on the origin of species, aquatic animals must
6 be raised in discrete populations, similar to that of
7 a herd of cattle or a flock of poultry.

8 And these are general conditions that we
9 looked at. Aquatic animals captured for free-ranging
10 populations that have not been under a producer's
11 continuous management beginning no later than the
12 second day of the animal's life are not suitable for
13 organic production. That's an overriding conclusion.

14 Producer's must provide organically
15 produced aquatic animals with a total feed ration
16 composed of organic -- of agricultural products that
17 are organically produced.

18 And, therefore, feed rations -- and also,
19 importantly, especially based on some of the letters
20 we have received, I want to make it very clear that we
21 very purposefully said, having said that they must
22 have a total ration of organically produced process,

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1 it was not intent that it is our recommendation that
2 any producer must provide organically managed aquatic
3 animals with a feed ration consistent with the
4 animal's natural dietary preferences. We weren't
5 necessarily advocating that piscivores be vegetarian
6 if that wasn't their nature.

7 And that fish meal and fish oil should be
8 added to the national list as an allowed feed
9 supplement. I'll go back to that at a later point
10 because it becomes very important in these
11 considerations, and I want to be clear why we make
12 this exception.

13 Livestock care standards say that -- we
14 found that producers must establish and maintain
15 preventative health care practices, including
16 selection of the appropriate species, provision of a
17 suitable feed ration, establishment of living
18 conditions to allow for natural behaviors and stress
19 reduction, and the use of allowed medicines and
20 vaccines as necessary. And the producer may use
21 temperature or pressure shock to induce triploidy or
22 sterilization in aquatic animals in their operation.

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1 Under livestock living conditions, that
2 the organically managed aquatic animals must be raised
3 within a secure, defined production system that
4 accommodates the animal's health and natural behaviors
5 and minimizes the risk of escape.

6 The producers must maintain healthy water
7 conditions with respect to temperature; oxygen
8 concentration; pH; and toxins, including ammonia and
9 carbon dioxide. And the producers must maintain a
10 production system, whether self-contained or located
11 in open water, in a manner that does not contribute to
12 the contamination of water or soil by nutrients, heavy
13 metal, or pathogenic organisms.

14 Production systems located in open waters
15 must be sided and managed to minimize the contact or
16 potential for contact with prohibited substances,
17 including environmental pollution; and that under
18 identification, producers must maintain records
19 sufficient to document the origin, feed rations,
20 living conditions and as-needed health care practices
21 applicable to each group of aquatic animals produced
22 on their operation.

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1 Those are the overriding principles by
2 which we evaluated each group. I'll go very
3 specifically now to our findings under wild-caught
4 production systems.

5 On the origin of livestock, it was
6 actually -- we could -- it can be established where
7 the animals began or where the spat came from or where
8 the fingerlings were actually introduced into the
9 system.

10 But what we really found is that a
11 producer is really, beyond that, not in a position to
12 intentionally, after introducing the animals that they
13 ultimately capture, that the production system in its
14 entirety it was difficult for us to establish that
15 they manage the entire process.

16 We've also mandated that the origin of
17 livestock provisions in the NOP final rule must
18 -- that the producer must be responsible for
19 introducing the specific animals produced on their
20 operation and that it's reflected in the rule, and
21 regardless of the age of which the management begins,
22 the animals need to be identified, assembled in a

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1 discrete and contained population and managed under
2 the producer's continuous oversight.

3 It was our finding that these are not --
4 these requirements are not satisfied in wild harvest
5 in which a producer has no managerial responsibility
6 or direct contact with the animal until the time it is
7 captured.

8 On livestock feed, the feed must be
9 organically produced to meet the requirements of this
10 title. Under the final rule for terrestrial
11 livestock, any feed ingredient that can be organic --
12 that is, feed materials that are agricultural
13 commodities must be organically produced.

14 The final rule also establishes two
15 categories of non-organically produced feed products,
16 nonsynthetic and nonagricultural. The feed provisions
17 in the final rule, which are supported by the
18 recommendations of the NOP -- NOSB, sorry --
19 established that a producer must proactively supply
20 the animals on their operation with a balanced and
21 complete feed operation.

22 And the task force concludes that a

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1 producer who captures wild animals has no direct
2 involvement in providing this feed. On livestock
3 health care, while health care practices in organic
4 livestock production are predicated upon prevention of
5 stress and illness, the need for natural and synthetic
6 forms of intervention is well established.

7 I'm not going to labor this point a lot
8 because in terms of the health care management, our
9 ultimate finding was that -- because I would never
10 advocate the therapeutic or sub-therapeutic management
11 of health care in a system that doesn't require it --
12 it's impossible for us, or at least for us to
13 understand, how it could be proactively managed and
14 how intervention could take place in a wild system.
15 So under that criterion we felt that the wild
16 operations do not satisfy the health care management
17 requirement established in OPFA.

18 Livestock living conditions, we found
19 that, really, the requirement entails establishing a
20 distinct, defined space that provides livestock with
21 appropriate shelter and mobility and protects them
22 from prohibitive practices and input.

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1 Since a producer of wild aquatic animals
2 is not responsible for performing that task, they
3 cannot fulfill the OPFA's managerial requirement to do
4 so. Under livestock identification we found that the
5 records required under the NOP final rule document the
6 source of the animal, when it is brought under organic
7 management, how it was fed, cared for, housed and
8 slaughtered.

9 And the task force concludes that a wild
10 capture producer can document which animals were
11 caught on their operation, but the records do not
12 fully convey the information that is required by OPFA.

13 Clearly, there are many fisheries that
14 have intentional oversight and we don't minimize that.

15 But we found it very difficult to find conditions to
16 represent a sufficient degree of intentional producer
17 oversight to differentiate between organic and non-
18 organic.

19 And we very much encourage the regulated
20 care of wild animals in management systems. And
21 although we conclude that organic certification is not
22 appropriate for such systems, we recognize the

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1 increasing importance of providing consumers with the
2 fullest and most accurate information possible on the
3 production and handling of foods.

4 And we encourage the wild-harvest aquatic
5 animal operations industry to explore other
6 certification efforts outside of the National Organic
7 Program that can help address the differentiation and
8 the extraordinary nature of the fishery that it is
9 being produced in.

10 Under aquaculture, the origin of the
11 species we found could be determined and in fact could
12 be managed in a discrete system. Livestock feed also
13 could be managed and proscriptive. Where the
14 conundrum came on aquaculture was that for aquaculture
15 to be successful as we practice it today and without
16 changing the diet of the animal, it's necessary to
17 feed fish meal and appropriate to feed fish meal in
18 that environment.

19 In the absence of organic wild fish, it
20 was impossible for this task force to preclude that.
21 We couldn't say that fish meal -- when the feed
22 requires 100 percent organic feed, if there wasn't

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1 organic fish meal, we couldn't -- there was no way to
2 advocate for the organic aquatic species unless they
3 didn't use fish meal as their base.

4 That truly relegated that to relatively
5 light-feeding fish, like tilapia. The irony in all of
6 this is in creating exceptions to this we've created a
7 great deal of confusion, because what we thought was
8 very important was at least to allow the opportunity
9 for nonorganic fish meal to be used as five percent of
10 the feed supplement, which was a supplement, and a
11 dietary supplement, rather than the primary feed
12 source or feed stock or feed ingredient.

13 And the reason we did that is it's very
14 consistent with the entire organic rule 95.5, the feed
15 requirements and supplements, and we've made those
16 exceptions all the way through for livestock.

17 The decisions on fish meal and under all
18 aquatic species affect far more than aquaculture.
19 They really go to poultry production and other animal
20 systems also. So making sure that we recommended the
21 ability to use fish meal as a supplement is a critical
22 precedent also for other livestock.

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1 On health care management, again, because
2 it's a discrete population in a recognized system and
3 with boundaries, we concluded it was possible to
4 establish health care management systems, and that
5 livestock living conditions were under the continuous
6 control of the producer.

7 And we finally concluded that the
8 identification of the animals was possible, again,
9 because of the discrete population and the controlled
10 environment. There are many, many other
11 recommendations which we go back to the environmental
12 -- the importance of the environmental control and all
13 of that.

14 We didn't attempt to develop standards.
15 We did a lot of exercises of what-ifs, if we were to
16 develop these standards. And on mollusk production
17 our conclusions were not to develop them at this time,
18 consistent with the rest of our recommendations.

19 But also the mollusk production, out of
20 all of them, got the least support from the industry
21 in terms of the documentation presented and our
22 ability to review it in a timely manner and to

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1 actually make recommendations.

2 So those are our conclusions. You've all
3 had these reports. You've all seen, actually, the
4 comments that came in from the various groups and
5 you've heard the public testimony here yesterday very
6 eloquently presented.

7 And I believe that the information is on
8 the table for all of you to review the task force, as
9 you have done, to look at the public comment that has
10 come before you, and to move forward. So I'd like to
11 open this up to any questions. Yes?

12 MR. LOCKERETZ: Concerning livestock
13 living conditions for a farmed species, it says here
14 "responsiveness to species' fundamental behavioral
15 requirements." Does that effectively rule out
16 anadromous fish?

17 MR. ANDERSON: I'm sorry. I didn't hear.

18 MR. LOCKERETZ: Does the requirement that
19 the -- this is not for farmed fish, but under
20 livestock living conditions, "responsive to species'
21 fundamental behavioral and physiological requirements
22 must be the primary consideration." Does that in

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1 effect rule out farming of anadromous fish?

2 MR. ANDERSON: I don't know what that is.

3 MR. LOCKERETZ: The ones that go out to
4 the ocean and come back again, that being the most
5 characteristic behavioral need of salmon, for example,
6 and others.

7 MR. ANDERSON: I'm sorry. Maybe other
8 people from the panel could --

9 MS. GOLDBURG: No, I don't think it does,
10 because many of these fish when they're farmed as
11 slaughtered before they reach the age where they would
12 go back into fresh water to spawn.

13 MR. SIDEMAN: They only go back to fresh
14 water to breed. So you're killing them before they
15 reach breeding age, you're potentially killing them
16 before that natural behavior would happen anyway.

17 MR. LOCKERETZ: Okay.

18 MR. ANDERSON: Does that make you feel
19 better?

20 (Laughter.)

21 MS. GOLDBURG: Prohibition at its finest.

22 MR. RIDDLE: I just think that the report

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1 and all the testimony that we received constitutes an
2 incredible base of knowledge for us to continue to
3 work from. But, you know, as I've seen standards
4 develop over time in other sectors it's been a very
5 evolutionary process.

6 You know, the way that the organic
7 farming standards moved forward, you know, from the
8 farmers and consumers and then eventually setting up
9 third-party certification mechanisms, and then the
10 final step being the regulatory step.

11 And here, in a way, we're starting with
12 the regulatory step and I hear the numerous conundrums
13 of the report and the various comments it put forward.

14 And it seems to me that moving to that step right
15 away without the evolutionary development similar to
16 what we've had in other sectors is premature, or might
17 be premature, despite all the good work that's been
18 done.

19 And the question I have, I guess, is you
20 know, maybe to Rick or eventually to OGC, but -- and
21 maybe the task force may have some opinion or
22 observations on this, but it really relates to what

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1 the status of the sectors that are not covered by the
2 rule -- or, yes, that are possible under OPFA but not
3 covered by the rule, what the status will be of those
4 sectors.

5 Can they continue to develop their
6 industry, market identity, use the word "organic," or
7 not? Is there a --

8 MR. MATHEWS: That's the same issue that
9 we were discussing yesterday. We still have to get an
10 opinion out of OGC on that.

11 MR. RIDDLE: Yes. But it's really kind
12 of breaking it down into two questions, one being
13 sectors that the Board has addressed, like the
14 greenhouse or mushrooms, and made a recommendation.
15 So it's kind of rule-making that's pending, that's in
16 motion.

17 But in this area with either the wild or
18 the farm-raised aquatic species, if the Board hasn't
19 made a recommendation, then what's the status of them,
20 too? So if we can break it down --

21 MR. MATHEWS: It's the --

22 MR. RIDDLE: Okay. Yes.

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1 MR. MATHEWS: You want the issue
2 presented to OGC in two forms?

3 MR. RIDDLE: Yes.

4 MR. ANDERSON: Actually, Jim, I think
5 that's very important because in this case we're, as a
6 task force, recommending that standards not be
7 developed at this time, not necessarily precluding
8 their development at a later time if new methods or
9 other things were to develop on that.

10 But I think it's a very important
11 question, that if you accept this report -- that
12 you're accepting the task force's report, but you
13 then, I believe, must at least come to some decision
14 or intent as to whether standards should be developed
15 or not developed at this time or deferred.

16 MR. CARTER: On your origin of livestock
17 under farm-raised systems where you've got folks that
18 are getting fingerlings that are two days old and then
19 raising them out, and you say that the recommendation
20 is designed to allow for the introduction of non-
21 organically managed aquatic animals.

22 If they're going through, though, in the

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1 production facility -- I mean, in the hatchery -- you
2 know, in a lot of species they're trying to tweak it
3 so that they raise all male or all female. I mean,
4 they're doing some genetic manipulation. Can you
5 bring those in, then, to an operation and grow them
6 out for organic?

7 MR. ANDERSON: Well, I think that the
8 genetic manipulation really, you know, has to be under
9 the old non-GMO issue, especially if that's transgenic
10 and where those lines are drawn.

11 MR. CARTER: No. This isn't even
12 transgenic.

13 MR. ANDERSON: Well, I think that what
14 we've tried to do here is to make that consistent
15 with, for instance, poultry. They're very, very
16 similar.

17 MR. CARTER: Okay.

18 CHAIR BRICKEY: Well, if I were writing a
19 legal memo, I mean, I see differences in systems where
20 they in effect are, quote, captured in that you're
21 working on them and developing standards and other
22 systems where you might not be doing that.

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1 It's, you know, what we call preemption.

2 You know, sometimes there's a fight between the
3 federal government and the state government over who
4 controls something, and a lot of the time if the
5 state's are really regulating, they've captured it.
6 So there's an analogy there.

7 The part that I think is conceptually
8 troubling for me about all of this is the use of the
9 word "managed." You know, what does that really mean?

10 In some systems it seems like management is avoiding
11 contamination or trying to prevent contamination.

12 In other systems it seems like a very
13 active form of practices that are designed to make
14 something happen, as opposed to avoiding something
15 bad. So, you know, that's kind of an arbitrary
16 distinction, maybe.

17 MR. ANDERSON: Well, I think that the
18 management really broke down to not whether it was
19 about the ocean, but whether or not we knew at any
20 point in time where this animal was. And as we looked
21 at "wild" in its general context, I think we would
22 apply that the same way to, let's say, ranging animals

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1 and fixed groupings, kelp and fish. You know, those
2 are the kinds of distinctions.

3 CHAIR BRICKEY: But controlled for what,
4 I guess is the question. Well, it's sort of like at
5 the airport they say, has this baggage been under your
6 control the entire time and you say, yes, it has,
7 because that means nobody put a bomb in it. Control
8 in this situation, is that management or what is it?

9 MR. ANDERSON: I think that what I
10 believe that the task force found, particularly on the
11 wild side -- I mean, it's fairly easy to see how the
12 aquaculture is managed -- that given the requirements,
13 particularly the record-keeping requirements -- if you
14 just went to record-keeping requirements, at least as
15 the system is set up today -- there's no method of
16 keeping, you know, distinct records on a given animal
17 or herd or flock basis.

18 MR. SIDEMAN: I'd like to comment at
19 least on where I stood on that issue, and it was more
20 responsive to the idea of responsibility than it was
21 control. In the aquatic system it's very different
22 from a farm because no one's actually responsible for

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1 the area you're talking about, where on a farm
2 somebody is.

3 And no one's responsible for the activity
4 that's occurring in that area, where on a farm there
5 is. And the things you would be concerned about are
6 contamination. On a farm, there is the issue of air
7 pollution coming in, but you would have good control
8 about somebody coming and dumping belpar on your
9 farm.

10 You would have control over that, whereas
11 in the ocean situation there are all sorts of people
12 passing through dumping all sorts of things. And
13 although the fisherman may be able to monitor it, he
14 doesn't have the responsibility for making sure no one
15 does that.

16 And in reality, he doesn't have
17 responsibility for the monitoring of it. It's
18 somebody else; it would be a different agency entirely
19 who would be watching the ocean to see what is dumped
20 there.

21 And then also there are the other
22 activities. Although the fishermen may be carrying

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1 out real good, sustainable practices in the kind of
2 fish they catch, they're not responsible for the
3 activity of other people in that exact same area.

4 Where on a farm, nobody's going to come in and due
5 improper weed control or improper chemical
6 applications or not manage the fertility properly.

7 Where in the ocean somebody can be
8 entirely over-fishing the population that you're doing
9 a real good job of. And the example I used in the
10 task force is that it could be the organic, certified
11 fisherman who pulls out the last fish, because
12 somebody else has been over-fishing in that same area.

13 And that last salmon taken out of the ocean could be
14 an organic one.

15 And that really disturbed me, and that's
16 where I just couldn't see any way of certifying this
17 kind of approach.

18 MR. BANDELE: Well, back to the
19 management of terrestrial systems, crops, and
20 livestock, it's always, like, a proactive type of
21 activity. It's not just keeping from pollution, but
22 proactively providing for healthy stalls, healthy

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1 livestock, et cetera. Now, in the wild situation it's
2 happened that it's done proactively.

3 MR. ANDERSON: Well, I think that if you
4 recall my presentation, I used the word "proactive"
5 many, many times, and that was clearly one of the
6 places that we could not establish that that was be
7 being done. Jim.

8 MR. RIDDLE: Yes. We have heard
9 testimony of certain systems that do have some
10 proactive environmental management as part of their
11 systems. So I wouldn't discount that totally just
12 because it's wild, necessarily.

13 But the comment I wanted to make is one
14 thing we ran into in the aquaculture task force
15 eventually was the need to differentiate in the market
16 the organic honey, which may be processed, heated,
17 used as an ingredient and filtered, versus organic raw
18 honey, to have kind of a standard of identity to --
19 because it's a different product.

20 The consumer has different expectations.
21 The word "organic" is being used, and so we're
22 proposing in that report a definition for organic raw

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1 honey. And, in looking at this, it seems if this
2 moves forward for either sector or both, the wild and
3 versus farm-raised, if it could be linked to a
4 descriptor that's required of organic farm raised or
5 organic aquaculture product or something that
6 differentiates it from an organic wild, and we should
7 look at this on wild terrestrial, organic wild. If
8 it's from a wild system, it's a different product from
9 a blueberry from a cultivated system.

10 And I've just thrown that out to the
11 Board for discussion and there was some reaction, but
12 I don't think we've given that a lot of thought. And
13 it really wasn't addressed in the task force work,
14 that being an option, but just -- that's something
15 else I think to be thinking about, that we've come to
16 with the honey, anyway, that there was a need to
17 differentiate the two different types of very
18 different organic products.

19 MR. ANDERSON: Well, I think it's
20 absolutely true, Jim. I think it's been important,
21 it's been good that we've had a kind of a parallel
22 process here with the apiculture. The real hurdle --

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1 I think there are two very clear hurdles to this.

2 One is feed source. And I think we could
3 get around a whole lot of the other things. The feed
4 source and the identification requirements are the two
5 things that I believe are the major considerations
6 here, the identification because as we identify the
7 ecosystem that it operates in, we've got to know where
8 the animal or that flock or school is.

9 MR. HARPER: I just thought I'd sort of
10 follow up in Jim's comments with a little different
11 take on it. I had a very difficult time when looking
12 -- most of the data on the wild side came from Alaska,
13 you know, provided by the people from Alaska.

14 And I had a very difficult time looking
15 at that information and thinking about, say, the rest
16 of the West Coast or other areas for wild-caught
17 salmon, and all the different aspects of managing --
18 you know -- management within the organic handling
19 systems that we've already got in place.

20 And not that I couldn't conceptually
21 grasp the fact that there could potentially be actual
22 standards, but whether, practically, there's any way

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1 to actually apply those standards and actually be able
2 to differentiate between fish systems so they're all
3 along the coast and so on.

4 My main comment is that I have a very
5 difficult time differentiating between the consumer
6 thinking what was wild, sustainable wild, for example,
7 and the organic, whether there'd be really any
8 differentiation between those. And that was where I
9 came from.

10 CHAIR BRICKEY: Were you thinking about
11 geographic distinctions, that in some area you might
12 be able to better manage than in other areas?

13 MR. HARPER: Well, it had to do with feed
14 sources in areas, you know, source contamination along
15 the whole coast. You know, I was thinking about the
16 State of Washington, the salmon that come back in the
17 State of Washington or Oregon and California, and
18 where you could -- say, the environmental
19 contamination issues, the feed sources, all these
20 different areas, and how you could actually,
21 practically, apply any distinction between these
22 different systems, and that there'd come down a real

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1 meaningful differentiation between organic and wild.

2 CHAIR BRICKEY: So you might be in a --
3 I'm just trying to understand your point -- you might
4 be in a geographic area where you didn't think you
5 could manage to prevent contamination. Is that what
6 you're saying?

7 MR. HARPER: That's correct. And you
8 know, along anywhere, I just have a very --

9 CHAIR BRICKEY: So how would you deal
10 with that?

11 MR. HARPER: Yes.

12 MS. BURTON: Typically -- and here is the
13 certification expert -- but, typically, when we have
14 certified wild operations, you have set boundaries and
15 you do have to prove that there's been no
16 contamination. You have a set plot, even though it's
17 wild and somebody's responsible for that, whether it's
18 Bureau of Land Management or what have you. You still
19 have to document that there is a, you know, boundary
20 zone, so to speak.

21 So, to me, that is truly wild versus
22 something that you really don't have any control over.

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1 CHAIR BRICKEY: But is it important in
2 those situations that you have an agency role by one
3 source, or is that what's important?

4 MS. BURTON: Not necessarily one source,
5 other than it's a valid source. So, to me, you know,
6 there's just a distinction between a definition of a
7 wild berry that you go and harvest from a set plot
8 farm where you have a managed system, versus something
9 in the ocean where you --

10 CHAIR BRICKEY: My question, I guess, is
11 whether that area could be, you know, in some way
12 could be the Chesapeake Bay. I guess that's what
13 we're really talking about. Eric.

14 MR. SIDEMAN: Well, my feeling is that
15 the producer needs to have responsibility. No one
16 owns the Chesapeake Bay. There may be people
17 responsible for monitoring it, what happens to it, but
18 there's no one who actually takes the responsibility
19 if something does happen to it that might --

20 MS. BURTON: You're saying that there's
21 ways to validate that that certain zone or that area
22 is indeed wild. Is this possible and I would say

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1 probably yes. But are we getting that from the wild
2 aquatic task force? I don't believe that we've been
3 guaranteed that.

4 MR. KING: But in the example you made,
5 Kim, of, say, a berry that you take from a spot,
6 ultimately there is an entity responsible for the
7 management, the harvesting; where with the Chesapeake
8 Bay, who would that be?

9 MS. GOLDBURG: It would be a fisheries
10 management agency.

11 MR. SIDEMAN: They might monitor some
12 aspects of it, but not all aspects of it.

13 CHAIR BRICKEY: Right. No.

14 MR. CARTER: Well, what if it's mushrooms
15 from the U.S. forest?

16 MR. SIDEMAN: We have never certified
17 mushrooms from anywhere. We certify, like Kim says,
18 mushrooms that were picked in a designated area. We
19 have people around different states --

20 MR. CARTER: Zones.

21 MR. SIDEMAN: -- picking mushrooms from
22 all over. Those were not be certified. You have to

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1 designate where you're getting the mushrooms and
2 somebody has to be responsible that what's happening
3 in that site meets the standards.

4 MS. BURTON: At all times.

5 MR. SIDEMAN: At all times, not going in
6 and measuring, testing for residue that we -- when we
7 started off way back in the 1980s we said we don't
8 want organics measured by some sort of test -- so
9 going in and saying the Chesapeake Bay is clean so the
10 fish are organic is not what the standard is about.

11 It may be a good way of setting up some
12 sort of a standard for saying these fish came from a
13 clean water source. We will call them whatever you
14 want to call them, but that's not organic.

15 MS. BURTON: Unless you could validate
16 it. If I was a fisherman on the Chesapeake Bay and
17 that's the only place I ever fished and that was my
18 zone and I had control over it --

19 MR. SIDEMAN: That's right. And you --

20 MS. BURTON: -- and I could show an
21 organic plan on that system, then I think that it
22 would be warranted. But I'm not hearing that we can

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1 do that.

2 MR. ANDERSON: Any other questions?

3 Thank you.

4 CHAIR BRICKEY: Thank you. I think we're
5 back to Owusu, and I understand you linked your first
6 three items together.

7 MR. BANDELE: Yes, that's right. And
8 Eric's going to hand me them.

9 (An off-the-record conversation ensued.)

10 CHAIR BRICKEY: The chair would like to
11 note that we're dealing with all of our action items
12 tomorrow so that's when we'll be dealing with these
13 issues. I'd like to move back to Owusu now.

14 MR. SIDEMAN: Right. And we're going to
15 move on to a discussion of compost. For those of you
16 who don't have anything to do right this second, you
17 can look in Section 8 -- excuse me -- Section 7 in the
18 notebook for people on the Board and Mark handed out
19 -- have you handed it out yet?

20 MR. KING: Yes.

21 MR. SIDEMAN: Here it comes, a packet of
22 information from the Crop Committee and in it is a

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1 page entitled "National Organic Standards Board Crop
2 Committee Recommendation in Section 205, 203 of NOP
3 final rule." That section has regulations on
4 composting. That's what we're going to be discussing
5 next.

6 Is everyone ready? I suspect that those
7 of you who are here to listen have not had a chance to
8 read this yet. I put this together. This is a
9 comment on the problem with the way the National
10 Organic Program handled composting.

11 And I think the people in the National
12 Organic Program office now actually recognize this is
13 a problem because they received numerous comments on
14 this. And I suspect it brought back some memories of
15 the first proposed rule, and they were happy that this
16 was just one tiny section.

17 It's a very controversial area because I
18 think what happened was that they started out with a
19 very narrow set of parameters that they were trying to
20 address within the compost regulations. And because
21 they started out with this narrow guidance, they ended
22 up with a very narrow rule or a narrow set of

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1 regulations.

2 And the problem with it is that it is
3 going to be very hard for farmers to make compose the
4 way this regulation is written and still carry out
5 farming practices. These guidelines were taken from
6 other agency guidelines on composting. And
7 essentially, they were meant for people who are
8 running manufacture-of-compost facilities.

9 The biggest problems with this have to do
10 with carbon-to-nitrogen ratios, with temperature
11 monitoring, with the amount of turning that's taking
12 place. And these were all very restrictive and also
13 demanding of time and energy from the farmer. And the
14 comments that are probably coming to the NOP office --
15 and many of them I know because I know the people who
16 are making them. Many of them I don't know. But I
17 think they all centered around the fact that
18 composting made this way is, one, going to be
19 impossible to take place on a farm. And that's what a
20 lot of organic is all about is actually doing that
21 nutrient management on the farm.

22 And, two, was it was too restrictive and

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1 was going to produce a compost that didn't meet the
2 needs of organic farmers in many situations anyway.

3 It was beyond the ability of the crop
4 committee to come up with new guideline
5 recommendations. And then we also felt that the
6 National Organic Program would rather have a better
7 seeded footing to fall back on when they're writing
8 new regs. So we came up with the idea of creating a
9 compost task force that was going to come up with new
10 language that we would recommend to the -- or present
11 to the National Organic Standards Board to recommend
12 to the National Organic Program at the next meeting.

13 It's going to be very quick that this
14 takes place. We're essentially going to write regs
15 that will be fitted to the rule for a rule change, an
16 amendment to the rule to take place. And we will
17 present this to the National Organic Program at the
18 next meeting of the Board.

19 The compost task force that we are
20 putting together or recommending -- we want to get the
21 blessing of the Board to do this -- is going to have a
22 relatively small number of people, three, six, nine

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1 people on the Board -- excuse me -- on the task force,
2 and each of these are going to be representing
3 different sectors.

4 From the Board there will be Rose and
5 that's it.

6 MR. RIDDLE: Where is Rose?

7 MR. SIDEMAN: Oh, that's right. Excuse
8 me. Russu is not on my list here, Ana Russu. And
9 I'm going to be on -- I will be a past member of the
10 Board by the time this takes place -- well, maybe not.

11 MR. RIDDLE: You'll be in transition.

12 MR. SIDEMAN: I'll be in transition.

13 (Laughter.)

14 MR. SIDEMAN: I'll be on the Board and
15 Zia Zalaban, who I think in this crowd probably needs
16 no introduction. Will Brinken , who is a world-
17 recognized composting consultant; Kim Krohl, who is a
18 sustainable agriculture person, used to work at the
19 Rodale Experiment Station and is now in the SAR
20 office.

21 Fred Mangolf, a soil scientist and
22 organic matter management expert from the University

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1 of Vermont; Michael Doyle from Georgia has a food
2 safety laboratory, and his lab has done work on the
3 fate of pathogens in compost and manure.

4 Clyde Williams, who is a vermiculture
5 expert and Pat Milner, who works at an ARS lab and was
6 one of the guiding lights for the rules as written.

7 CHAIR BRICKEY: Sounds wonderful. I feel
8 like you like running without me in the spotlight.

9 MR. SIDEMAN: So with that, is Mark in
10 the room? Mark and I worked together, we put together
11 this task force and I guess I'd like to commend Mark
12 for his help in helping me write the piece of document
13 that was just handed out to you.

14 Actually, Zia and I put most of our
15 effort into writing this document and Mark just okayed
16 it and made edits on it. And Mark and I put together
17 the task force. And with that, I'd like to get the
18 blessing from the Board to go ahead and do this.

19 CHAIR BRICKEY: Okay.

20 MR. ANDERSON: Would you like a motion?

21 CHAIR BRICKEY: Any action today or what?

22 (Off the record)

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1 CHAIR BRICKEY: Are you putting together
2 a task force?

3 MR. RIDDLE: I had a question. Is it
4 known who will chair, because that's seems to be
5 critical. Has someone stepped forward to chair?

6 MR. SIDEMAN: Not yet.

7 MR. LOCKERETZ: Eric, what will the
8 product of this group be? How detailed?

9 MR. SIDEMAN: The product will be a very
10 detailed set of language that will be inserted into
11 the Rule.

12 MR. LOCKERETZ: With a preamble, I hope.

13 MS. KOENIG: Eric.

14 MR. SIDEMAN: Yes.

15 MS. KOENIG: I'm not sure if you've
16 mentioned it, but we were also going to hopefully look
17 at compost tea.

18 MR. SIDEMAN: I hadn't mentioned that
19 yet. Thank you.

20 MS. KOENIG: Okay. I'm sorry. All
21 right.

22 MR. SIDEMAN: And I should, because

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1 Carolyn introduced me that way. Where's the agenda?
2 Oh, it's right there. In addition to the language on
3 composting, we're going to --

4 CHAIR BRICKEY: Let's finish this part.

5 MR. SIDEMAN: No. No. This is going to
6 be what -- the task force is going to deal with.

7 CHAIR BRICKEY: All right. Okay.

8 MR. SIDEMAN: The task force is also
9 going to deal with these two other items, which we
10 hope can be put into the language, as well. Compost
11 test and vermiculture, and then also, other ways of
12 treating manure so that manure does not have to meet a
13 manure waiting period.

14 If you have a copy of the agenda, that
15 discusses the status of a heated pathogen pre-manure
16 product. Those are two other tasks for this task
17 force that revolve around compost issues.

18 CHAIR BRICKEY: It would seem to me that
19 a chair of this group ought to be a member of the
20 Board. So I would suggest that you and Owusu and Rose
21 talk about it and let us know tomorrow how that's
22 going to work. But I -- unless there's objection, I

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1 think the task force should move forward.

2 MR. RIDDLE: Yes. I just -- when you
3 mentioned compost tea, I'd just suggest consulting
4 with Dr. Elaine Ingham at Oregon State, who's a real
5 expert on compost tea, just on that subject.

6 MR. MATHEWS: Hey, Jim, I'll stick to
7 this kind of tea.

8 (Laughter)

9 MR. SIDEMAN: It's up to you.

10 MR. MATHEWS: Scotch.

11 CHAIR BRICKEY: Can't get off on this
12 topic. Let's move to discussion.

13 MR. SIDEMAN: Do we have a final copy of
14 the organic mushroom?

15 CHAIR BRICKEY: It wasn't handed out.

16 MR. SIDEMAN: It wasn't handed out.

17 (Off the record conversation)

18 MR. SIDEMAN: Okay. I think we're ready
19 to go. These, if I remember correctly, and I'm
20 certainly willing to be corrected, these will be voted
21 on, on Wednesday, and these mushroom standards as
22 presented have been on the web for comment.

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1 The crop committee has worked a number of
2 times on this and has made recent changes on it, based
3 on the comments we received. So what everybody
4 actually has is almost the latest version, and I'd
5 like to make one correction in it.

6 The last sentence of paragraph A should
7 be stricken out or striked out, struck out, taken out,
8 deleted and a new sentence inserted. Is everyone
9 following me?

10 CHAIR BRICKEY: Yes.

11 MR. SIDEMAN: The last sentence of the
12 first paragraph labeled A should now read:

13 "Mushroom and media shall not be in
14 direct contact with wood treated with
15 prohibited materials."

16 MR. SIEMON: Once more, please.

17 MR. SIDEMAN: I'll read it once more:

18 "Mushroom and media shall not be in
19 direct contact with wood treated with"
20 -- feel like I'm speaking like George
21 Bush -- "prohibited materials."

22 MR. SIEMON: That's the same as the line

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1 on greenhouse in the --

2 MR. SIDEMAN: That's right.

3 CHAIR BRICKEY: Right.

4 MR. SIEMON: Yes. Now, this is a Rule
5 addition.

6 MR. SIDEMAN: This will be a Rule
7 addition. My understanding is there's hope to get
8 this someday so it would actually be the mushroom
9 standard that takes effect in October of 2002. I'm
10 not sure how that's going to happen, but that's the
11 wishes of many.

12 MR. SIEMON: Does this standard that
13 you're recommending depend on the change in the other
14 standards of compost? Or is this just in the context
15 of mushroom?

16 MR. SIDEMAN: To some extent it is, but I
17 don't think so, actually, as you look at D.

18 MR. SIEMON: Yes.

19 MR. SIDEMAN: So it is dependent, you're
20 right. D reads:

21 "Manure and nonorganic agricultural
22 material used as growth medium must be

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1 composted. Compost used as a growth
2 medium must be produced in accordance
3 with compost guidelines protected in
4 205.203."

5 MR. SIEMON: So that's based on the new

6 --

7 MR. SIDEMAN: That's a new law.

8 MR. SIEMON: -- that aren't quite
9 developed yet.

10 MR. SIDEMAN: And we also have an
11 exception, except that a compost pile may be allowed
12 to heat as high as 185 degrees; it may not be standard
13 heating, but that is necessary here.

14 MR. SIEMON: But what if they don't
15 change? Where are we at with this document today if
16 the compost standards don't change?

17 MR. SIDEMAN: They will change.

18 MR. SIEMON: They will change.

19 MR. SIDEMAN: Yes.

20 MR. SIEMON: But this was in the version
21 that's been posted and we received input.

22 MR. SIDEMAN: Right. The compost

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1 standards are not going to change until the Rule's
2 amended, which will not be until after October of
3 2002. So for awhile the mushroom standards are going
4 to -- people are going to have to deal, just like the
5 farmers are, with the way compost is written in the
6 Rule, except that they can make the pile hotter.

7 MR. SIEMON: Yes, but the farmers have an
8 alternative, which is to put the noncompost in sooner.

9 They would actually have to compost according to the
10 five times in 15 days, the whole nine yards.

11 MR. SIDEMAN: That's right.

12 MR. SIEMON: There is no alternative.

13 MR. RIDDLE: Right. So my question is --

14 MR. MATHEWS: So they can heat it to a
15 higher temperature.

16 MR. RIDDLE: Yes. My question to follow
17 up on that, did you receive comments from mushroom
18 producers who said that the compost section of the
19 Rule is unworkable for them.

20 MR. SIDEMAN: Yes, we did.

21 MR. RIDDLE: Okay.

22 MR. SIDEMAN: And the big problems were

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1 mostly the temperature, but also the carbon and
2 nitrogen ratio.

3 MR. SIEMON: They didn't want it that
4 high?

5 MR. SIDEMAN: Well, they want to be able
6 to work with a carbon-nitrogen ratio that's higher at
7 some point.

8 MR. MATHEWS: So why haven't you
9 addressed that here?

10 MR. SIDEMAN: We could put that in. I
11 guess that was an oversight on my part.

12 MR. HARPER: Was there a discussion of
13 that?

14 MR. SIDEMAN: Well, there was discussion
15 as far as we're changing the compost regs, so they
16 will eventually come in. I think we could, in
17 addition to the temperature, say that they could have
18 higher carbon-nitrogen ratios, as well, just that the
19 compost piles may be allowed to heat as high as 185
20 degrees, and have a C to N ratio higher.

21 MS. GOLDBURG: Fifteen is not --

22 AUDIENCE MEMBER 1: Fifteen to 1, 20 to

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1 1, in there.

2 MR. BANDELE: There was one area of some
3 contention that has not been discussed yet, and that's
4 in the area of commercial availability of agricultural
5 input. We got a lot of comments in that regard, in
6 terms of using straw and grain, and as the committee
7 vote was split on that, so.

8 MR. SIEMON: On the first, we're they
9 open to this? Is that what you're saying?

10 MR. BANDELE: I'm talking about C,
11 agricultural materials such as grains or straw, and
12 one of the objects was that we are not requiring the
13 sawdust to be organic. And sawdust really makes a
14 bigger part of those inputs than the straw and grain.
15 So that's an area that Board members need to keep in
16 mind.

17 MR. SIDEMAN: The rest of this standard
18 was unanimously okayed by the crop committee. C was a
19 split decision in the crop committee. The majority of
20 the committee were okay with the way it's presented,
21 requiring that agricultural products, grain and straw,
22 be from organic sources.

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1 MR. SIEMON: In the minority --

2 MR. SIDEMAN: The minority committee
3 wanted that based on commercial availability.

4 MR. SIEMON: For straw and grain.

5 MR. SIDEMAN: For straw and grain.

6 MR. SIEMON: Not the wood section, just
7 this.

8 MR. SIDEMAN: The wood is not an
9 agricultural product.

10 MR. SIEMON: That's fine.

11 MR. SIDEMAN: There is no organic wood.

12 MR. SIEMON: Fine.

13 MR. SIDEMAN: Now, the majority of the
14 committee felt the wood should come someplace else in
15 here, from areas that have not been treated with the
16 materials.

17 MR. HARPER: What was the -- my questions
18 about C have to with -- we're on the sawdust. What
19 kind of reaction did you get from lesser producers as
20 far as being able to get sawdust and actually
21 understand that the sawdust that you're getting from
22 the mill is coming from an area that is not treated

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1 with prohibited substances?

2 MR. SIDEMAN: Yes. We did get comments
3 on that. They're mixed comments. Some of them
4 discovered they could not verify where their soil is
5 coming from, and some felt that they could. And at
6 least on the property, I'd like to hear from other
7 people who felt that if you can't verify it then you
8 probably don't get the organic label.

9 MR. HARPER: But if I understand, the
10 sawdust of lumber operations is that they get
11 materials from all over.

12 MR. SIDEMAN: Depends.

13 MR. HARPER: All over the place.

14 MR. SIDEMAN: Depending on where you're
15 getting your -- there are lumber operations like that
16 and there are lumber operations that know where their
17 trees come from.

18 MR. HARPER: Well, you know where your
19 trees come from. That's not the question. The
20 question is that they come from so many variable
21 different areas.

22 MR. SIDEMAN: But when you know where

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1 they're coming from, then you know how those areas
2 have been treated. If you don't know, then you don't
3 know how they've been treated.

4 MR. RIDDLE: This may be.

5 MR. HARPER: I guess the question is
6 you've got an area and they, for instance, used round-
7 up on the side of the logging road, on the side of the
8 logging road that has nothing to do with the trees.
9 Is that a prohibited prohibited substance, but is that
10 the area where the trees come from?

11 MR. SIDEMAN: I don't know. I think that
12 would be an interesting question. But yet, that's not
13 what we were actually referring to. We were
14 referring, for example, spraying for spruce bud worm.

15 I'm not sure if the main forest was sprayed with
16 spruce bud worm with various insecticides.

17 We felt that those kinds of trees should
18 not be permitted as a source of food for mushrooms.
19 The round-up on the road grade is not really a concern
20 of mine.

21 MR. KING: You know, we're like --

22 MR. SIDEMAN: I was looking this way.

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1 Can I let Mark go first?

2 MR. KING: It's a simple question. Why
3 isn't wood an agricultural product?

4 MR. SIDEMAN: Why isn't wood an
5 agricultural product?

6 MR. KING: Yes. Didn't you say it's not?

7 MR. SIDEMAN: Yes. Well, there's not a
8 standard yet for it. It could be, but we don't have
9 any certified trees.

10 MR. KING: Okay.

11 MR. SIDEMAN: And you would like to see
12 us requiring organic soil?

13 CHAIR BRICKEY: No. It --

14 MR. KING: No. No. No. No. That's not
15 my point. But I just heard that and I thought, you
16 know, that lots of trees are in managed areas, and why
17 isn't that an agricultural product?

18 MR. SIDEMAN: Yes. Well, it could be,
19 and there could be organic soils, but there isn't any
20 organic soils.

21 MR. KING: Well, I'm sure eventually that
22 we'll see it, but I'm just --

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1 MR. SIDEMAN: Yes.

2 MR. KING: -- it doesn't sound to be
3 three weeks from now.

4 MR. SIDEMAN: We felt that there was no
5 organic soil.

6 MR. KING: Right. Right. Okay.

7 MR. MATHEWS: But you could have organic
8 Christmas trees.

9 MR. SIDEMAN: Yes, and we do, indeed. We
10 certify organic Christmas tree producers; not all over
11 the state, just like to --

12 CHAIR BRICKEY: Just a small contained
13 area.

14 MR. SIDEMAN: That's right, and we know
15 exactly which trees they are.

16 CHAIR BRICKEY: I got it.

17 MR. SIDEMAN: They've been inspected.

18 CHAIR BRICKEY: I got it.

19 MS. BURTON: He knows.

20 CHAIR BRICKEY: I got it.

21 MR. SIDEMAN: They've been inspected for
22 another job.

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1 CHAIR BRICKEY: Three days old?

2 MR. SIEMON: The real important thing
3 that I don't think is at issue is that there are other
4 wood sources like used pallets and all that kind of
5 thing.

6 MR. SIDEMAN: Those would not be
7 permitted for tree --

8 MR. SIEMON: No. And I don't really want
9 to debate, but to really clarify that. I don't think
10 that's an issue.

11 MR. SIDEMAN: Well, I think it's fair to
12 say that the wood can't be treated after it's
13 harvested. Wood pallets are.

14 MR. SIEMON: I just think we definitely
15 have to have something to differentiate between, you
16 know, here you have "from trees."

17 MR. SIDEMAN: But it also says that the
18 wood can't be treated afterwards.

19 MR. SIEMON: Yes, but I'm not -- wood
20 pallets are not treated, but you don't know what
21 they're exposed to.

22 MS. KOENIG: Do you want to --

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1 MR. SIEMON: No, I'm happy with this. I
2 just wanted to make that point. It's really important
3 to remember that if we start debating this thing you
4 can't --

5 MR. SIDEMAN: Yes.

6 MR. SIEMON: -- have anything but raw
7 wood, saw --

8 MR. SIDEMAN: I think the point you're
9 making, you got to know where your sawdust is coming
10 from, too.

11 MR. SIEMON: Yes.

12 MR. SIDEMAN: Because you could be buying
13 sawdust from a furniture manufacturing plant, which
14 could have all furniture finishing in there if they're
15 using wood that had at one time been finished with
16 varnish or polyurethane.

17 We won't allow that. It has both trees
18 from a farm that hasn't been treated, and also,
19 sawdust from wood that hasn't been treated at the
20 harvest.

21 MR. SIEMON: Okay.

22 (Off the record conversation)

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1 MS. CAUGHLIN: It's good that there's
2 also a lot more working done with genetic manipulation
3 of forest woods.

4 MR. SIDEMAN: Yes.

5 MS. CAUGHLIN: It's becoming a much
6 bigger product, as we know.

7 MR. SIDEMAN: Thank you. That's a real
8 good point.

9 MS. CAUGHLIN: Certainly, it is.

10 CHAIR BRICKEY: Yes.

11 MR. SIDEMAN: That's right. Not many
12 years down the road most will be coming from GMO
13 poplar.

14 MS. CAUGHLIN: That's already out there.

15 MS. BURTON: Not just yet.

16 MS. CAUGHLIN: Well, there are -- I think
17 that that's not correct.

18 MR. SIDEMAN: So at least --

19 MR. RIDDLE: Where is that addressed?

20 MR. SIDEMAN: Well, it's addressed in the
21 Rule that we don't allow --

22 MS. CAUGHLIN: I think it should be

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1 spelled out because I don't think there is necessarily
2 that much awareness, and I think it just should be
3 spelled out.

4 MR. MATHEWS: You're talking about --

5 MS. CAUGHLIN: There is more genetically
6 engineered --

7 MR. MATHEWS: No, we don't want to go
8 down that road. We want to keep all excluded methods
9 in one spot. We had this discussion before when this
10 thing was first drafted previously. We had that
11 sprinkled throughout. The concern becomes that if you
12 sprinkle it throughout and you --

13 MS. CAUGHLIN: Okay. Then it has to be
14 --

15 MR. MATHEWS: -- miss a spot --

16 MS. BURTON: Yes.

17 MR. SIDEMAN: Yes.

18 MS. GOLDBURG: Right.

19 MR. MATHEWS: -- then you've created a
20 loophole. So we put it in one spot, strictly
21 prohibiting that for everybody. So we don't want to
22 go down that road and stick it into any spot.

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1 MS. CAUGHLIN: It needs to allow for no
2 prohibited substances to that section.

3 MR. MATHEWS: Yes, as 205 will apply --

4 MS. CAUGHLIN: That needs to be very
5 firm.

6 MR. MATHEWS: -- looking back to where
7 you can do that.

8 MS. CAUGHLIN: I think that's very
9 important.

10 MR. HARPER: So in B we would need to say
11 not excluded, instead of prohibited substances raised
12 on GMOs.

13 MR. RIDDLE: Well, or prohibited
14 substances as described in section 205-105, because
15 then that lists all of those.

16 MR. SIDEMAN: So it's right after
17 prohibited materials here in C. Is that where you
18 would put it? Right there or above that?

19 MR. RIDDLE: Up here: "Soils and other
20 materials, used as growth medium must originate from
21 trees that have been grown in areas free from
22 prohibited materials" -- yes, I outlined it -- "as

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1 described."

2 MS. BURTON: Eric, wouldn't you need to
3 then modify section B?

4 MR. HARPER: Yes, that's -- take out GMO.

5 MS. BURTON: Because you do say that it
6 should not be raised on GMO substrate. You're not
7 wanting to use GMOs substrate -- the document you need
8 to modify.

9 MR. SIDEMAN: Let me finish this one
10 here. So C, "As described in section 205-105 in B,
11 the prohibited substance that has not been raised on
12 GMO substrate." We could just strike that, because
13 that's assumed. Is that what you're saying, Richard?

14 MR. MATHEWS: Yes.

15 MR. SIDEMAN: Okay.

16 MS. BURTON: Prohibited substance covers
17 it.

18 MR. HARPER: Fine. The restrictions on
19 the sawdust here, are those --

20 MR. BANDELE: Restrictions on what?

21 MS. BURTON: The sawdust.

22 MR. HARPER: The restrictions on the

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1 sawdust.

2 MR. BANDELE: Okay.

3 MR. HARPER: Are those same restrictions
4 in place for a crop site, as far as using, I mean,
5 sawdust that you use in fields have to come from areas
6 that are --

7 MR. SIDEMAN: No. That's a good point.
8 Steve brings up a good point. There are some things
9 here that are not the same as crop production, and
10 there's a reason for that. We do not require organic
11 compost, because that's a soil medium.

12 We don't require organic manure. We
13 don't require organic mulches in crop production, and
14 that is because that growing plants is very different
15 than growing mushrooms. Mushrooms are much more akin
16 to livestock and they're actually using the substrate
17 as a food source, as livestock use their food.

18 And that food has to be organic and the
19 crop could be held that the medium and the substrate
20 that the mushrooms are growing on needs to be organic,
21 unlike putting fertilizer down for a plant. That's
22 not really food.

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1 It's going to be broken down in the soil
2 and minerals released, picked up by the plant. That's
3 a different situation. Now, that is a very
4 controversial point. There are a lot of mushroom
5 producers who sent in the comment that they don't want
6 to have to use organic food for their mushrooms.

7 MS. KOENIG: Well, they said that
8 commercial availability --

9 MR. SIDEMAN: Right. They said it was
10 unavailable.

11 MS. KOENIG: It was the commercial
12 availability.

13 MR. SIDEMAN: They would like to --

14 MR. SIEMON: Someone told me that those
15 materials are like a specific type of straw-like
16 barley, straw over rice straw. I mean, what are the
17 materials that they are --

18 MR. SIDEMAN: They are looking for rye,
19 millet and straw. I didn't hear that it had to be
20 barley or oat or a particular kind of straw, but they
21 felt that they couldn't get those things organically,
22 and maybe felt that those are agricultural products

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1 and that we want them to be required to be organic,
2 because that's what this is all about, is organic
3 farming.

4 And these are not things that cannot be
5 gotten right away. This is not -- I mean, there are
6 some things that'll be really hard to buy. For
7 example, if you wanted to raise Jet Star tomatoes and
8 the Rule restricted you to organic seeds, you are not
9 going to find an organic Jet Star tomato.

10 It's just not there. I mean, there's
11 nobody you could ask to grow organic Jet Star tomato.

12 It just isn't going to happen because there's nobody
13 out there to grow a Jet Star tomato. But if you
14 wanted organic millet, Bill, will you order me some
15 organic millet?

16 MR. LOCKERETZ: It's already available.

17 (Laughter)

18 MR. LOCKERETZ: All you want.

19 MR. BANDELE: But the point was, I mean,
20 I wasn't really sure in terms of availability and the
21 geographical area.

22 MS. BURTON: Yes, and that's what --

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1 MR. SIDEMAN: I mean, could you put
2 organic millet on a truck for me and send it?

3 MR. SIEMON: At that price.

4 MR. LOCKERETZ: Sure. Sure. It all
5 comes through the millet-growing areas.

6 MR. SIDEMAN: And that's the way the
7 majority of the crop committee went, is that we felt
8 that if somebody wanted it, it may take -- you may
9 have to think of it nine months in advance so you can
10 call the farmer and ask for it, but if you wanted rye
11 or millet you could call me up and I'd give you
12 farmers to grow it.

13 And it was a minority of the committee
14 who felt that commercial availability should be a part
15 of this, because of geographical areas, that if
16 somebody were raising mushrooms in Los Angeles and
17 that it would be hard to find somebody to grow rye in
18 Los Angeles.

19 MR. BANDELE: And a part of that, to me,
20 that in terms of certifying, the certifying agent
21 could make that determination as I appreciate it.

22 MR. SIDEMAN: That's right. It was a

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1 three to two vote, by the way.

2 MR. BANDELE: Yes, three to two.

3 MR. SIDEMAN: Three to two.

4 MR. SIEMON: Just as far as my records,
5 rye and millet are actually two markets very much
6 needed right now for rotation that are lacking.

7 MR. SIDEMAN: Right.

8 MR. SIEMON: Right. Now, there's
9 actually a shortage or an over-supply of those in the
10 rotation cycle right now. So this actually would be
11 great, insofar as I know.

12 MR. SIDEMAN: You may want to explain
13 that better, that you're saying that --

14 MR. SIEMON: They want --

15 MR. SIDEMAN: -- they have a market for
16 the rye and millet.

17 MR. SIEMON: Yes, I didn't say it right.

18 They want millet as part of their rotation, but they
19 don't have a market for any millet right, and rye
20 also. Those are two things that there's actually not
21 enough markets for.

22 MR. SIDEMAN: That's right. So you could

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1 help me find farmers that these country servers said
2 they couldn't find rye.

3 MR. SIEMON: Fred was the one who said
4 this. He was the one advocating millet markets
5 because it's something needed for the rotation. This
6 goes the other way. What do we need to eat to support
7 an organic rotation.

8 MR. SIDEMAN: Any other questions on
9 mushrooms?

10 MR. MATHEWS: So you're going to address
11 carbon-nitrogen in this one?

12 MR. SIDEMAN: I just added it as a
13 sentence, that the compost piles may be allowed to be,
14 except -- that last sentence would be -- except that
15 compost piles may be allowed to heat as high as 185
16 degrees and have a carbon-nitrogen ratio lower than
17 presented in other parts of the Rule.

18 Or it could be section -- I don't
19 remember the section. It was either in section 205 or
20 203.

21 MR. SIEMON: So this goes through the way
22 it is now.

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1 MR. SIDEMAN: Yes.

2 MR. SIEMON: They'll have to live with
3 the present composting standards, except they have an
4 --

5 MR. SIDEMAN: Except they have an
6 opportunity to have a higher temperature and a lower C
7 to N ratio.

8 MS. GOLDBURG: So you're going to leave
9 it nonspecific C to N ratio?

10 MR. SIDEMAN: Yes.

11 MS. GOLDBURG: Yes.

12 MR. RIDDLE: So you're only allowing it
13 lower. Is there any instance where they may want it
14 higher?

15 MR. SIDEMAN: There are farmers who would
16 want it higher. There might be growers who would want
17 it higher.

18 AUDIENCE MEMBER: I don't think so,
19 because it's going to be going for a hot object --

20 MR. SIDEMAN: Yes, they want more
21 nitrogen.

22 AUDIENCE MEMBER: -- very quickly.

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1 AUDIENCE MEMBER: Less finish than you
2 would use in soil.

3 MR. SIDEMAN: Oh, yes.

4 AUDIENCE MEMBER: Less finished compost
5 is very hot and higher nitrogen.

6 MR. SIDEMAN: So you can't think of a
7 mushroom grower that would want a higher C to N ratio?

8 MR. RIDDLE: Okay. Let's just be careful
9 that we don't rule that out in this meeting.

10 MR. SIDEMAN: Well, is there any
11 objection? Can you just say a nonspecific -- can you
12 just say --

13 MR. RIDDLE: Other than requiring --

14 MR. SIDEMAN: Other than presented in
15 205-203. Let me ask that now. Is everyone done with
16 this section now?

17 CHAIR BRICKEY: So to summarize.

18 MR. SIEMON: I need to hear where we
19 ended up on the compost.

20 MR. SIDEMAN: Compost use as a growth
21 medium must be used in accordance with compost
22 guidelines presented in 205-203(C)(2), except that

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1 compost piles may be allowed to heat as high as 185
2 degrees, and C to N ratios may -- other than those
3 presented in 205-203. So that's not reading right,
4 what we have.

5 MR. RIDDLE: You can work on the exact
6 wording.

7 CHAIR BRICKEY: And have the C to N
8 ratios. Can you read this -- around tomorrow?

9 MR. SIDEMAN: Yes, we can polish that up.

10 MR. BANDELE: Well, when we go tomorrow,
11 Carolyn, the greenhouse and mushroom documents will
12 both be prepared to vote on.

13 CHAIR BRICKEY: All right.

14 MR. BANDELE: Now, the composting task
15 force.

16 CHAIR BRICKEY: Right.

17 MR. SIDEMAN: Do we need to vote?

18 CHAIR BRICKEY: We will need to vote on
19 it.

20 MR. BANDELE: We're voting on that?

21 CHAIR BRICKEY: Beside your chair.

22 MR. BANDELE: Okay. Transitional, Jimmy

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1 and I can work further on that and we're going to put
2 that on the web site, but that does not require a vote
3 at this time.

4 CHAIR BRICKEY: Will you want to discuss
5 it any further tomorrow at all?

6 MR. RIDDLE: No, but actually, we -- I
7 already took your comments and did the work and it's
8 gone to be printed. And I'd ask for it before
9 tomorrow, but if we can have it by the end of today
10 and then people can have it overnight, and the same
11 thing on the agriculture changes.

12 CHAIR BRICKEY: Any further discussion.

13 MR. RIDDLE: Yes, so people can read it
14 before they come up.

15 CHAIR BRICKEY: Yes.

16 MR. RIDDLE: Just for discussion purposes
17 and then posting.

18 CHAIR BRICKEY: All right. Okay.

19 MR. SIEMON: So Eric, my question,
20 though, is we still are making them turn the compost
21 five times.

22 MR. BANDELE: Well, I thought that was

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1 like for the steady -- for the wind grow situation,
2 right? I mean, in other words --

3 MR. SIDEMAN: As the result of a static
4 --

5 MR. BANDELE: -- for these other piles
6 they wouldn't have to turn them five times.

7 MR. SIDEMAN: There is also -- there's a
8 static pile reg in the Rule.

9 MR. SIEMON: So they won't have to. I'm
10 just trying to make sure we're covering it all.

11 MR. SIDEMAN: No, you're not.

12 MR. SIEMON: Maintaining -- using an --
13 static.

14 MR. SIDEMAN: That's right.

15 MR. SIEMON: Okay.

16 MR. SIDEMAN: They are going to follow
17 the other regs.

18 MR. SIEMON: Okay.

19 MR. SIDEMAN: Temperature and C to N.
20 They haven't objected to that, that specifically,
21 although it may be a hardship for some of them.

22 MR. SIEMON: Oh. So they can use the

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1 static, and if they want to only turn it once or
2 twice.

3 MR. SIDEMAN: Some of them may. Others
4 would just get out there and turn it more frequently.

5 MR. SIEMON: All right. I just wanted to
6 make sure we're taking care of it.

7 MR. SIDEMAN: Yes. I don't think that's
8 going to be a big problem.

9 CHAIR BRICKEY: I've been in those
10 places. They have -- they turn them all the time.

11 MR. SIEMON: Okay. I'm just --

12 MR. SIDEMAN: All right. That wasn't as
13 big a problem as the --

14 MR. SIEMON: All right. I just wanted to
15 make sure we covered it. All right.

16 MR. SIDEMAN: For the task force, you
17 said that the check would come from the NOSB, but the
18 task force in the agriculture didn't come.

19 MR. BANDELE: So it's the chair or former
20 chair.

21 CHAIR BRICKEY: Yes.

22 MR. BANDELE: I mean, member of one.

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1 Okay. Go ahead.

2 CHAIR BRICKEY: Okay. Now, we're going
3 to take a 10-minute break. Before we go, really --

4 MR. BANDELE: Well, the only other thing
5 we'd share, that was the national list that Mark had
6 suggested drafting in terms of a reference point for
7 that was stuff which could be used for information
8 purposes, that that is not in its final form. So we
9 won't need to deal with that, and I just wanted to
10 make --

11 MR. SIDEMAN: It's in second, so.

12 MR. SIEMON: Which subject was that?

13 MR. SIDEMAN: The second.

14 MR. RIDDLE: Yes. It was in the hand-out
15 that he passed out.

16 MR. SIDEMAN: Correct, the second to the
17 last thing.

18 MS. GOLDBURG: But we just didn't stop to
19 get it made.

20 MR. RIDDLE: So if members have comments
21 they should just direct them to the committee.

22 MS. GOLDBURG: Yes. Yes.

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1 MR. RIDDLE: Okay. Thank you.

2 MR. SIDEMAN: Oh, I see.

3 CHAIR BRICKEY: Now, one more thing is, I
4 got a memo back from Diane this morning about the
5 questions that people raised yesterday about the
6 birds. So I'm going to pass these out. Let's go over
7 this --

8 MR. SIDEMAN: I got four copies.

9 CHAIR BRICKEY: You did?

10 (Off the record conversation)

11 CHAIR BRICKEY: If you have questions
12 about this document, Shannon Peek there at the back
13 may be able to help answer questions.

14 MR. SIDEMAN: Okay.

15 CHAIR BRICKEY: Okay. All right. Let's
16 take a 10-minute break. (Whereupon, a recess
17 was taken at 10:10 a.m. until 10:33 a.m.)

18 CHAIR BRICKEY: Everybody take their
19 conversations outside or come in.

20 MR. SIDEMAN: Thank you, Willie.

21 CHAIR BRICKEY: Go ahead.

22 MR. HARPER: Well, I guess my request is

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1 that when we have committee reports, perhaps say -- if
2 there are areas that were more controversial, we
3 understand, that maybe both of them might say that it
4 was three, two or whatever so we understand, because
5 it's hard to understand how close a recommendation or
6 the vote was; just so that the rest of the Board
7 understands.

8 MR. SIDEMAN: Well, can t you say right
9 from the start, I missed the only percentage --

10 MR. HARPER: I'm just saying we're going
11 to have a committee report on these different issues
12 and if there are controversial areas where there was
13 disagreement, that we understand how much -- how close
14 was that.

15 MR. SIDEMAN: Okay. Like we did --

16 MR. HARPER: Yes. That helps understand
17 how big the issue was.

18 CHAIR BRICKEY: Okay.

19 MR. LOCKERETZ: All right. We have
20 several items we'll be voting on. The first is the
21 principles of organic production and handling. This
22 was posted on the web over the summer. And we fielded

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1 some comments. And in response to those comments by a
2 three to two vote, we decided to insert two additional
3 sections.

4 We've left the rest of it unchanged. The
5 two new sections are what is now 1.3 -- if it's short
6 enough I'll just read it. These -- for the committee
7 and for the Board, these were distributed to you by
8 e-mail two weeks ago, but the same things were
9 distributed in paper form just this morning, three
10 pieces of paper, principles of organic production and
11 handling, 1.3, reads:

12 "The basis for organic livestock
13 production is the development of a
14 harmonious relationship between land,
15 plant and livestock, and respect for the
16 physiological and behavioral needs of
17 livestock. This is achieved by providing
18 good quality organically-grown feed,
19 maintaining appropriate stocking mates,
20 designing husbandry systems adapted to
21 the species needs, promoting animal
22 health and welfare while minimizing

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1 stress and avoiding routine use of
2 chemical or allopathic veterinary drugs,
3 including antibiotics."

4 This is not very different from the
5 language of the final Rule, but we couldn't have
6 principles of organic production without talking about
7 principles of organic livestocking. So in order to
8 have all the principles in one place, this was
9 included.

10 The other new insertion is number 1.5:
11 "Organic production and handling systems strive to
12 achieve agrisystems that are ecologically, socially
13 and economically sustainable."

14 This is not regulatory language, of
15 course. That objection was made to it. But these are
16 not regulations. These are principles and concepts
17 that we should have in front of us in thinking about
18 regulatory language.

19 Yes, Kim.

20 MS. BURTON: Really, my only comment to
21 that was that the Board voted to take this section out
22 and now it's back in. And I'm just wanting -- I guess

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1 I want to know how many people really commented to
2 have it included back in and how it --

3 MR. LOCKERETZ: There were --

4 MS. BURTON: -- and further Board
5 discussion on how it --

6 MR. LOCKERETZ: -- there wasn't a whole
7 lot of comment on any of this..

8 MS. BURTON: Okay.

9 MR. LOCKERETZ: There were a few -- I
10 don't remember the exact number. There were a few
11 comments along this line, and it wasn't -- it did
12 divide the committee three, two.

13 MS. BURTON: Okay.

14 MR. LOCKERETZ: So if the Board opposes
15 it they can -- when this comes up for a vote you can
16 suggest an amendment to strike that, if you so desire.

17 MS. BURTON: Okay.

18 MR. LOCKERETZ: Yes, Jim.

19 MR. RIDDLE: I'd just like to speak to
20 that because, actually, the Board didn't vote to
21 remove it. It was in the very original draft because
22 it is part of the OTA --

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1 MS. BURTON: Right.

2 MR. RIDDLE: -- standards, and the
3 -- that was circulated to Board existing Board members
4 and past Board members, and the comments received
5 asked to remove it. So it wasn't in the second draft,
6 the draft that was posted for comment.

7 MS. BURTON: Right.

8 MR. RIDDLE: And then we received
9 comments from the Campaign for Sustainable Ag, OTA and
10 several others to insert it. So that's how it
11 reappears.

12 MS. BURTON: Didn't we vote as part of
13 the original proposal? I mean, we voted to put it on
14 the web as is, but we --

15 MR. RIDDLE: To post it; to post it.

16 MS. BURTON: So we did vote.

17 MR. RIDDLE: It was a committee report.

18 MS. BURTON: Okay.

19 MR. RIDDLE: Yes.

20 MR. LOCKERETZ: Yes, but I don't believe
21 the Board voted on these.

22 MR. RIDDLE: No.

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1 MR. LOCKERETZ: We presented it to the
2 Board.

3 MR. RIDDLE: Right.

4 MS. BURTON: Oh, the committee, okay.

5 MR. LOCKERETZ: Posted it for comment and
6 now we're presenting a revision to the Board.

7 MS. BURTON: All right. Okay.

8 MR. RIDDLE: That's to be voted on
9 tomorrow.

10 MR. LOCKERETZ: Correct.

11 MS. BURTON: Okay.

12 MR. LOCKERETZ: While there is -- yes,
13 James.

14 MR. RIDDLE: And just one other comment.
15 I just completed a review contracted by the
16 government of Canada to compare, do a line by line
17 equivalency analysis of the Canadian draft standard
18 against the EU regulation.

19 And I just want to point out for the
20 Board that in both of those documents, which are
21 regulatory documents, contained extensive sets of
22 principles in their regulation, which are not

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1 inconsistent -- which are consistent with these
2 principles and actually do address social issues, as
3 well, in those regulatory documents.

4 Now, this is a guidance document. We
5 aren't proposing it for inclusion in the Rule, but
6 just to give you a sense of the international
7 framework that principles are addressed in other
8 regulatory standards.

9 MS. BURTON: No. I think I agree with
10 the principles. I know that from my history and
11 involvement with OTA, the section 1.5 is one that we
12 could never agree on from the industry, at least from
13 my experience.

14 So we did not -- we tried to keep out
15 social sustainability and economic sustainability out
16 of our principles, and I don't know if it's even in
17 the AOS.

18 MR. RIDDLE: This is drawn exactly from
19 the AOS, which is supported by the industry and
20 approved by the APS.

21 MS. BURTON: Okay. This 1.5 section?

22 MR. RIDDLE: Yes, exactly.

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1 MS. BURTON: Okay.

2 MR. SIDEMAN: The lines word for word.

3 MS. BURTON: I don't think that is.

4 MR. LOCKERETZ: Well, it is. I know it
5 is.

6 MR. RIDDLE: It's from AOS, but yes.

7 MR. SIDEMAN: It is.

8 MR. RIDDLE: It's right word for word.

9 MR. SIDEMAN: Do you have a problem with
10 the ecological part of that statement?

11 MS. BURTON: No. No.

12 MR. SIEMON: I think the real question is
13 about the social part --

14 MR. RIDDLE: The social part of it.

15 MS. BURTON: Yes, but --

16 MR. SIEMON: I think it's more important
17 than the economics, personally.

18 MR. RIDDLE: More than the economy.

19 MS. BURTON: I know that originally we
20 changed the word to "strive" so that it doesn't mean
21 that your bound to do it, but that you're always
22 striving towards it.

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1 MR. RIDDLE: Right.

2 MS. BURTON: And I do agree with that.
3 I'm just uncomfortable with inserting this back in
4 when we talked about --

5 CHAIR BRICKEY: And I don't know that it
6 is, to be honest -- in the case of socially
7 sustainable, well, I don't know exactly what that is.
8 Does that mean we keep all the farmers in business.

9 MR. BANDELE: Well, I wouldn't say that
10 and a lot times I appreciate that that social equity
11 part is the part that most, a lot of people are
12 critical of you know -- but to me, it's a very, very
13 important component of if you're talking about the
14 production handling systems.

15 And I think that would include such
16 things as fair treatment of farm workers. On the
17 broader sense it is other things but I think in that
18 -- in the case of social sustainability as far as the
19 production system is concerned, then it would include
20 to me components such as that in this broader sense,
21 it would also have to deal with -- one of the big
22 problems with the whole organic thrust is that lot of

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1 times the prices are beyond the scope of low income
2 people and there are ways that organizations deal with
3 that in terms of contributions, but that's on the side
4 of the contributions to the food banks and community
5 gardens and that kind of thing.

6 CHAIR BRICKEY: And I agree with all
7 that, of course, but I don't know how saying it here
8 -- see, if I'm asking you what does this mean, that's
9 the problem I have. Yes.

10 MR. RIDDLE: Yes. As a -- looking at it
11 from the inspection side, I would strongly oppose
12 trying to write standards and protocols for
13 enforcement of the social justice components, and I
14 have opposed that on the floor and caught hell for it
15 at the IFOR General Assembly.

16 But looking at it from the enforcement
17 aspect, I think it belongs in principles and does not
18 belong in standards enforcement. But it is certainly
19 a goal that's intrinsic to organic systems in the most
20 of the world.

21 CHAIR BRICKEY: Steve.

22 MR. HARPER: I guess I have no problems

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1 with the theme and the principles, except the fact
2 that everything else -- I think everything else that's
3 in the principles, there's also some basis in the
4 actual regulations that apply to some aspect of that
5 in the principles I mean.

6 The whole ecological part of it -- I mean
7 -- the standards are -- you know -- are -- the way we
8 evaluate materials, all these things, have to do with
9 ecological sustainability. All of that. But there's
10 nothing in the standards, the regulations that even
11 connect with social.

12 And so if there's no connection between
13 the principle and what's in the standards, what is the
14 point of having it in the principles?

15 MR. LOCKERETZ: Because principles exist,
16 whether or not there's an NOP. There was organic
17 farming before there was an NOP. It had certain
18 principles. It still has certain principles. It's
19 -- this is a statement called "principles," and those
20 are the principles, regardless of what the regulations
21 say.

22 To me, the significance is that this at

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1 least keeps the door open for consideration of social
2 questions when we look at future alternative regs.
3 In other words, if there were a system that was very
4 abusive of humans, and someone objected to it on that
5 grounds, without the sustainable principles -- such is
6 the problem, for example yes -- but without the
7 sustainable principles you could say, well, we don't
8 do that, we don't deal with the human question.

9 And that would be shutting out -- keeping
10 out of all future discussion any possibility of
11 dealing with the human side of organic farming unless
12 in your statement of principles we said, yes, the
13 human side of farming matters.

14 So it's not regulatory language. It's
15 not intended to be. But it's a key, active -- the
16 principles of organic farming include consideration of
17 the effects on humans and it's -- a statement of
18 principles without that would be lacking something.

19 MR. RIDDLE: I'd also like to respond to
20 Steve and just give an example of one of the other
21 principles; 1.4.5, second sentence reads: "Efforts
22 are made to reduce packaging, use recycled materials,"

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1 et cetera.

2 Well, those are two examples right there
3 where we don't link that to standards. We don't
4 require handlers to use recycled materials or reduce
5 packaging, but yet, it's a principle that we're
6 striving towards.

7 CHAIR BRICKEY: But we might sometime.

8 MR. HARPER: That's possible.

9 MS. KOENIG: Why do you say that --

10 MR. RIDDLE: Anything is possible --

11 MR. HARPER: Right.

12 MS. KOENIG: I have a comment and I don't
13 know if it would be appropriate, but could it be
14 included in 1.1 where you're giving more of a
15 comprehensive definition? I think that's what we're
16 trying to achieve in 1.1, where you could include the
17 social -- a sentence on striving for those -- you know
18 -- objectives without having its own separate number?

19 I don't know if that would lessen the
20 emphasis, yet include it, or I mean, I just wondered.

21 MR. LOCKERETZ: I don't know if that
22 would -- it would say the same thing. They would both

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1 say the same thing, would they not?

2 MR. RIDDLE: I could easily settle for
3 that.

4 MR. HARPER: I think 1.1 even puts more
5 emphasis on it.

6 CHAIR BRICKEY: If we talk about care and
7 treatment of workers, why don't we talk about that?
8 Why do we have to say something vague when I don't
9 know what it means?

10 MR. BANDELE: Because I think the point
11 that Willie just made, that we don't know what we may
12 do for future considerations.

13 MS. KOENIG: Yes. I think social -- and
14 plus, I think social aspects are really variable. I
15 mean, the word "social" to me encompasses many, many
16 things, it s not just worker safety.

17 MR. BANDELE: I should also point out
18 that he was in the SAR definition, the USDA SAR
19 definitions of sustainability, which of course,
20 organic production is -- could fall under that
21 umbrella along with some other things.

22 But those three components are usually

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1 mixed, the ecological, economic and the social
2 justice.

3 MR. LOCKERETZ: Okay. Can we move onto
4 the next one?

5 MR. RIDDLE: Yes. That's the next one.

6 MR. LOCKERETZ: The next one is
7 applicability Rules of section B. These were drafted
8 by the committee over the summer, posted for public
9 comment. There were two items. The first one we
10 received basically no comment on.

11 The first item was proposing to restore
12 the OFP small farmer exemption to the way -- restore
13 the small farmer exemption to the way it was in the
14 OFP, which is that it applies only for farmers, not to
15 handlers.

16 CHAIR BRICKEY: Not the handlers.

17 MR. LOCKERETZ: And secondly, that it
18 applies only -- it applies if your total sales are
19 over 5,000, not just that your organic sales are over
20 5,000. We didn't want to allow an exemption to a
21 large producer with a small organic sideline
22 operation.

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1 So the justification for this is it's
2 restoring the OFPA language. This received one
3 comment in support and no comments in criticism. The
4 -- now, there was another change that we had proposed
5 and put up.

6 MR. HARPER: The comment?

7 MR. LOCKERETZ: Sorry.

8 MR. HARPER: The comment in support was?

9 MR. LOCKERETZ: Saying that we think this
10 is a good idea; that's all. In support of our
11 proposed --

12 MR. HARPER: Okay.

13 MR. SIEMON: Just the top part only.

14 MR. HARPER: Yes, okay.

15 MR. LOCKERETZ: The part above the three
16 stars.

17 MR. SIEMON: That's right.

18 MR. LOCKERETZ: Now, we had originally
19 drafted and put up for public comment another item
20 which you heard about yesterday on exclusion from
21 certification where we required -- we had originally
22 proposed requiring it to be excluded for certification

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1 only if the end product came in an impermeable
2 container.

3 It's just consistent with inserting the
4 word "impermeable," because we wanted to strengthen
5 the idea of no accidental contamination by
6 pesticides --

7 MR. HARPER: Thank you.

8 MR. LOCKERETZ: -- applied during storage
9 and mixed -- in an operation that handles both organic
10 and conventional products. There was considerable
11 objection to that on the grounds that this would have
12 the effect of requiring retailer certification.

13 Now, whether retailers should be
14 certified or not is another -- it's a bigger and
15 different question and we didn't intend to use this as
16 a way of requiring retailer certification. It would
17 have that effect, though, because fresh produce often
18 must be kept in permeable containers. So by a vote of
19 four to one we decided to drop that proposal.

20 Jim?

21 MR. RIDDLE: Yes. The other thing linked
22 to that, though, was an inquiry to Rick, to the staff,

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1 about just the existing meaning of "enclosed in a
2 container."

3 MR. LOCKERETZ: Yes.

4 MR. RIDDLE: Did you get anything back?

5 MR. LOCKERETZ: No. I asked -- well,
6 he's not here now. Where is he? I asked him, did the
7 USDA and the NOP understand "container" to mean
8 impermeable container.

9 MR. SIEMON: Right.

10 MR. LOCKERETZ: And I didn't get an
11 answer to that. So we can talk about it today.

12 MR. SIEMON: So you're dropping this
13 proposal?

14 MR. LOCKERETZ: Yes. It did not -- we --
15 four to one -- by four to one we voted to withdraw
16 that proposal.

17 MR. RIDDLE: But we're continuing to see
18 clarification on "enclosed in a container," how
19 permeable could those containers be.

20 MR. SIEMON: Because one of my concerns
21 on this is not so much at the retail level, but at the
22 trucking world. You know, products go all over in

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1 distribution centers or, you know, all that kind of
2 thing is what this is also is dealing with.

3 MR. LOCKERETZ: At any stage in the --

4 MR. SIEMON: Yes. And onions are in net
5 bags that are plastic wrapped going through all kinds
6 of warehouses; to get delivered.

7 MR. LOCKERETZ: Well, also, we didn't
8 want to use this -- similarly with retailers, we
9 didn't want to use this as a way of requiring
10 certification of distributors and wholesalers. That's
11 a separate issue. Some people favor that.

12 But that's an issue that deserves
13 discussion on its own, because it's much bigger than
14 the permeability of the container. It has to do with
15 traceability and all that stuff. So that's a separate
16 issue for discussion.

17 We didn't want to use this as an indirect
18 way of forcing wholesalers to be certified, as well.

19 MR. SIEMON: In the clarification, you're
20 asking from them about the word "container," and it's
21 obviously to make sure they're not talking about
22 containers as in overseas containers.

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1 MR. LOCKERETZ: No, we're not.

2 MR. SIEMON: I know, but I mean, if we're
3 going to try to clarify it, that would be --

4 MR. LOCKERETZ: Well, I'll talk to Rick
5 again about that.

6 MR. SIEMON: Yes.

7 MR. LOCKERETZ: And discussion on what we
8 are recommending or the one we've withdrawn. Okay.
9 The third one, which is a very simple one to say, but
10 it's a very complicated one to explain. We drafted
11 this and posted it and got, again, just got one
12 comment endorsing it, no comments critical of it.

13 This was to insert the word "certified"
14 in three places so that --

15 MR. SIEMON: This is -- may I --

16 MR. LOCKERETZ: I think I finally
17 understand it by now, so that the name of the --
18 entity that was certified appears on the label of the
19 product. Right now, you have a situation when there's
20 a co-packer you could have the certified -- the co-
21 packing operation was certified, but its name doesn't
22 appear on the label so that you don't know who was

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1 being certified.

2 So this means either that the name of the
3 co-packer has to appear on the label or the final
4 handler has to be certified, because the company
5 that's selling the product, it's name of course is
6 going to be on the label.

7 But it has to be certified or the co-
8 packer's name has to be on the label.

9 CHAIR BRICKEY: Is this the so-called
10 "final label."

11 MR. SIEMON: This is the private label
12 issue.

13 MR. LOCKERETZ: Yes, and the committee
14 had adopted this over the summer. We got negligible
15 comment on it. So we're proposing it to the Board
16 unmodified.

17 MR. SIEMON: And you're saying the name
18 of the co-packer or the final distributor has to be
19 certified.

20 CHAIR BRICKEY: Name of the --

21 MR. SIEMON: Not what about if, just is,
22 this document just handed out, whatever this is from,

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1 just requires that certification be on the label.
2 You're just -- all right. Your summary was is that if
3 it's a private label and a retailer's going to private
4 label it, either they have to be certified or they
5 have to say the name of that co-packer on the package.

6 MR. LOCKERETZ: Correct.

7 MR. SIEMON: Well, what happened to the
8 name of the certifier on the package?

9 MR. LOCKERETZ: Oh, the name --

10 MR. HARPER: That's required.

11 MR. LOCKERETZ: -- the name of the
12 certifier, that will be on it in any case.

13 MR. SIEMON: Okay. That's what I
14 thought, so --

15 MR. LOCKERETZ: While with the present
16 version you don't know who was -- you don't
17 necessarily know who was certified.

18 MR. HARPER: I think, well, the big issue
19 -- one of the big issues of this, at least on the
20 processing side, is that there is a large concern by
21 manufacturers that are being private labeled -- one of
22 the concerns is that they -- and that is a sort of

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1 -- as a business decision, not wanting that
2 information to be out to other competitors.

3 And that's a relatively large issue among
4 manufacturers. They don't want to -- I mean, the
5 traceability is still there from the retailer back to
6 that manufacturer. But as far as being broadcast on
7 the package who's actually co-packing that product,
8 whether it's the private label people themselves or
9 the manufacturer themselves, they often don't want
10 that relationship described, because of competitive
11 reasons. And I think that's a really big issue.

12 MR. LOCKERETZ: In which case they would
13 have to be certified.

14 MR. HARPER: Well, I'm just saying that
15 that traceability is still there from -- if you know
16 that for a certainty.

17 MR. SIEMON: If I'm Safeway and I have a
18 private label, how am I going to get certified? The
19 plant's certified. The product -- we're all product
20 certified. Now, I'm just Safeway and not having an
21 idea of what certification means for all the retail
22 stores I have. What does getting certified mean for

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1 that?

2 MR. KING: Well, and can I tag something
3 onto that? In other words, if I'm Safeway or an
4 entity like that and I have a "central or regional
5 warehouse," is this proposing that just that warehouse
6 is certified as a handler, or 1500 stores? I mean,
7 there's a big difference there.

8 MS. BURTON: No. What it is, is it's the
9 actual processing facility that's either certified by
10 the handler.

11 MR. KING: Right.

12 MS. BURTON: Which, you know, say I'm a
13 processing plant --

14 MR. KING: Right. Right.

15 MS. BURTON: -- and it's either certified
16 by Smucker's, Knudsen, whatever we use, or it would be
17 certified by Safeway and Safeway would be responsible
18 to certify that facility under their name.

19 MR. KING: But then Smucker's would have
20 to be on the Safeway product.

21 MS. BURTON: No. It's one or the other;
22 it's one or the other.

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1 MR. KING: One or the other, right.

2 MS. BURTON: If we were wanting to
3 protect our contract packing location, then we would
4 be the certifier and our name would be on that label.
5 And if you would certify that facility --

6 CHAIR BRICKEY: So question. There's not
7 a way or a situation where nobody's on there and you
8 don't know who it is.

9 MS. BURTON: It's a traceability issue.

10 MR. SIEMON: It's traceability.

11 MS. BURTON: It's traceability back to
12 the certified entity that certifies that product.

13 MR. KING: But I'm confused. How could
14 Safeway certify itself?

15 MS. BURTON: They would have to -- they
16 would --

17 MR. SIDEMAN: Oh, no, Safeway wouldn't.

18 MS. BURTON: -- they would have to hold a
19 certificate and be responsible for the --

20 MR. SIDEMAN: I think you're confusing
21 terminology.

22 MR. SIDEMAN: Smuckers is not a

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1 certifier.

2 MS. BURTON: No. Our -- whoever we get
3 certified by.

4 MR. SIDEMAN: So if you re saying -- that
5 language was --

6 MS. BURTON: Okay.

7 MR. LOCKERETZ: The OGC would never
8 accept you as a certifier.

9 MS. BURTON: Thank you, Willie

10 (Laughter)

11 MR. KING: Okay. I'm still confused.

12 MS. BURTON: Okay. Smucker Quality
13 Beverages contract packs -- we contract pack a
14 location to run some products for us. That contract
15 packer is certified by QAI, okay. We pay for that
16 certification at that contract pack facility.

17 QAI's logo is on the label. Smucker
18 Quality Beverages' name is on the label. It's -- the
19 traceability is there, QAI, Smucker's. You can call
20 QAI and say, this apple juice is certified by you,
21 correct, by Smucker's, okay?

22 The problem is that some private labels,

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1 you still -- turn it around -- I am my Smucker Quality
2 Beverage facility. I am a co-packing private label.
3 It's got a QAI seal, no Smucker name on it anywhere,
4 but it does have -- it has a QAI seal but the co-pack
5 location is not on the label.

6 MR. KING: Right.

7 MS. BURTON: So it's got to be either
8 Smucker's on that private label, which I don't want my
9 name on a private label, or it has to be the name of
10 the certified entity, which would in that case be the
11 contract packing location. Does that make sense?

12 MR. RIDDLE: Yes. And Smucker's --

13 MS. BURTON: So either that or --

14 MR. RIDDLE: We're certified.

15 MS. BURTON: Smucker's is certified.

16 MR. RIDDLE: Right, and your co-packers
17 are certified.

18 MS. BURTON: And our co-packers.

19 MR. RIDDLE: So you're meeting it
20 already.

21 MS. BURTON: Correct.

22 MR. RIDDLE: Yes. But there are

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1 instances that don't.

2 MS. BURTON: Correct.

3 MR. SIDEMAN: Your co-packer certified as
4 a separate entity?

5 MR. RIDDLE: No -- either way.

6 MR. SIDEMAN: Or is it --

7 MR. RIDDLE: Either way.

8 MR. RIDDLE: -- or is it a Smucker's.

9 MS. BURTON: It's just that it's part of
10 the Smucker certification.

11 MR. RIDDLE: It doesn't matter.

12 MS. GOLDBURG: They actually obtain a
13 separate certification.

14 MS. BURTON: No. No, they don't.

15 AUDIENCE MEMBER: If I understand and
16 follow your viewpoint, we've already inspected the
17 plant for the original packer, and to reinspect it
18 seems duplicative. Our view of this and the way this
19 has been handled historically -- well, it's been
20 handled several different ways.

21 But our view of what needs to be
22 completed is simply the audit trail for the sale of

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1 the product from the supplier to the private labeled
2 merchant. And that does need to be inspected -- or we
3 need to have some kind of records in order to complete
4 that particular link and to also, of course, link our
5 certification name or seal to that final retailer.

6 So the problem is that in essence this
7 would involve sending an inspector out to Safeway to
8 inspect sales documents and that's it, which may be a
9 little difficult because of its expense, but it is one
10 way to do it.

11 We're not really interested in
12 reinspecting the plant just because it is a private
13 link.

14 MS. BURTON: But you still need to link
15 that logo to the processing facility.

16 AUDIENCE MEMBER: Correct. And that has
17 been done in several ways. Some certifiers have tried
18 out licensing of their seal schemes where they have a
19 relationship, and there's therefore three relationship
20 between their originally certified party, the licensed
21 private label party and the certifier.

22 And that link is completed and there is a

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1 log kept and tracking numbers assigned to that product
2 so that there is that link in the certifier's record.

3 And the originally certified supplier is required to
4 notify the certifier of any private labeling it's
5 doing, to provide all that information, contact
6 information and the private labeler is then require to
7 enter into a licensing or at least, you know, some
8 kind of a contract agreement with the certifier.

9 But it's not a complete certification.
10 And the certifier has a right to come out and inspect
11 all the records. They don't necessarily go out and
12 inspect all the --

13 MR. HARPER: Diane, have you been able to
14 -- able to as a certifier -- to effectively trace that
15 linkage?

16 AUDIENCE MEMBER: Well, I can't -- you
17 know, from my own experience it's not -- I'm not
18 -- OCI doesn't currently do this, but I have past
19 experience with OCI.

20 MR. HARPER: Pete there in the back. As
21 far as -- because I know you've got an -- private
22 label and potential private label customers, have you

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1 been able to effectively track this in the present
2 system?

3 CHAIR BRICKEY: You need to come forward
4 so we can hear you and get you on the record.

5 AUDIENCE MEMBER: In general, yes. What
6 we do is when we come across a private label situation
7 we establish a small, simple agreement between the
8 certifier -- and the private label owner. And so
9 there is a direct connect there.

10 It's a very simple agreement that, you
11 know, they won't pack the same products from another
12 source.

13 CHAIR BRICKEY: So am I hearing that you
14 don't see a problem with the way the Rule is currently
15 structured?

16 AUDIENCE MEMBER: Yes.

17 CHAIR BRICKEY: Yes, you don't see a
18 problem?

19 AUDIENCE MEMBER: I do see a problem.

20 CHAIR BRICKEY: You do see a problem.

21 Okay. Would you articulate what the problem is?

22 AUDIENCE MEMBER: That the way it's

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1 constructed, we can only use our own -- right now, our
2 only rights to our name and seal to enforce the final
3 link of information. We don't have the force of law
4 otherwise under the organic program to complete this
5 final piece of the audit trail. There's no
6 requirement. We have to do it through our own label.

7 CHAIR BRICKEY: Steve.

8 AUDIENCE MEMBER: Yes. It's my
9 understanding that retailers and others consumers, are
10 obligated to maintain records -- to be sure that
11 -- the consumer picks up a product --

12 MS. BURTON: Could you speak up? I can't
13 hear you.

14 AUDIENCE MEMBER: Sorry. When the
15 consumer picks up a product and it says "Trader Joe's
16 Soup," for example, with the Orange Hill logo, they
17 call Orange Hill, and we say, no, we don't certify
18 Trader Joe's.

19 AUDIENCE MEMBER: Right.

20 MS. BURTON: Right.

21 AUDIENCE MEMBER: And so it's something
22 that you couldn't sit -- to make that --

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1 MR. LOCKERETZ: Yes, bad decision.

2 MR. HARPER: However, you do know how the
3 contracts that you have in place, or the relationships
4 you had in place with your -- the people that you're
5 certifying and whether they have that private label
6 contract as part of their contract.

7 And the other issue I guess I wanted to
8 make about this is that even if somebody -- okay. Say
9 Trader Joe's, Safeway, or it doesn't make any
10 difference who it is, anybody -- there can be fraud
11 anywhere.

12 Somebody can have a product out there and
13 whether it's -- you know -- whether they -- whether
14 it's traceable or not, they can put someone's logo on
15 it and say it's certified. And even if these
16 provisions are in place somebody can still do it.

17 It's still a fraud issue at that point.

18 And it seems like it is traceable at this point.

19 AUDIENCE MEMBER: No.

20 CHAIR BRICKEY: It sounds like he has to
21 -- I mean, it might be in a particular situation, but
22 it might be that when he gets the call and somebody

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1 says, do you certify these guys and he says no, I
2 mean, he's sort of -- he may be in kind of a situation
3 where there's A, B, C or D.

4 He has to go back and check out A, B or
5 C, D and the possibility there, but that seems kind of
6 silly to me.

7 MR. RIDDLE: That's exactly what it is.
8 I'd like to point out that the two instances where the
9 USDA organic seal was already being used and there
10 were the investigation for this exact thing.

11 CHAIR BRICKEY: Situation.

12 MR. RIDDLE: This exact thing where there
13 was no oversight. They were a private labeler, not
14 connected in the certification loop.

15 MR. HARPER: Okay. But anybody can do
16 that. Doesn't make any difference what their
17 relationship is.

18 CHAIR BRICKEY: But if we can solve a
19 problem, why go to the -- wait. Wait. If we can
20 solve a problem where Pete goes back and he's got
21 records that show, yes, we certify this packer, it's
22 on the label, it may be Trader Joe's, but we know who

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1 it is, that seems to me to be something we can do.

2 MS. BURTON: The link between the
3 certification seal and whoever is certified needs to
4 be on the label somewhere.

5 AUDIENCE MEMBER: Yes.

6 MS. BURTON: And that's what they're
7 asking for.

8 CHAIR BRICKEY: Yes, I think that's
9 reasonable.

10 MR. HARPER: Right, it apparently is.

11 MR. RIDDLE: I'd just also like to point
12 out, the OTA strongly supports this. They're the ones
13 who brought this proposal forward.

14 MR. LOCKERETZ: They are the one endorser
15 of it as well.

16 (Laughter)

17 MS. BURTON: And there is that
18 understanding.

19 CHAIR BRICKEY: I mean, we can make a
20 recommendation on this. I don't know if -- you know
21 -- if NOP s going to implement it. I mean, our
22 preliminary conversations were that they didn't see

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1 this as a big problem, but maybe we haven't
2 articulated it very well, either.

3 If we're just now getting it, the light
4 bulb is just now coming on, maybe we haven't
5 articulated it well enough to get something done about
6 it. But we can certainly recommend it.

7 MS. BURTON: Yes.

8 CHAIR BRICKEY: As something we see that
9 needs to be done.

10 MR. SIEMON: My light bulbs haven't gone
11 off yet, you know.

12 (Laughter)

13 MR. SIEMON: I just heard it said that
14 the issue was the certifier needs to be responsible
15 for everything coming out of the plant and the ability
16 to audit that. So what I just heard is the
17 certification notification document really takes care
18 of this issue.

19 We haven't mentioned yet that the
20 packages have identification on which plant they came
21 from.

22 MR. HARPER: Well, for USDA box, but not

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1 for --

2 MR. SIEMON: Right. You have a
3 notification and you have a certificate, if they call
4 up any certifier and say, I've got this Trader Joe
5 product, it's certified and you have that
6 notification, there's no problem with that.

7 CHAIR BRICKEY: But there may be multiple
8 packers, right?

9 MR. SIEMON: Yes.

10 MS. BURTON: Yes.

11 MR. HARPER: I mean, they're still part
12 of the certification requirements.

13 MR. SIEMON: Yes, that's what I was going
14 to ask.

15 AUDIENCE MEMBER: They switch suppliers a
16 lot.

17 CHAIR BRICKEY: What? Get --

18 AUDIENCE MEMBER: They switch suppliers a
19 lot.

20 MR. SIEMON: But if a certifier certifies
21 a plant, they need to know what products are coming
22 out of that plant as a part of their audit.

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1 MR. SIDEMAN: And George, you're saying
2 the plant number will be on the container.

3 MR. SIEMON: Not always. All right, not
4 all the types. The certifier needs to know what
5 labels are coming out of that plant. Then your audit
6 trail is complete.

7 MR. SIDEMAN: Can I ask a question? What
8 if it said Trader Joe's orange juice, and sometimes
9 you have Tropicana, sometimes you have Smucker's,
10 sometimes you have somebody else do it. If somebody
11 called you up and said, I bought Trader Joe's orange
12 juice and it says organic and you're the certifier,
13 would you be able to know which --

14 MS. BURTON: Plant it came from.

15 MR. SIDEMAN: -- it came from?

16 AUDIENCE MEMBER: Through the lot coding
17 we should be able to.

18 MR. SIDEMAN: Lot coding.

19 MR. RIDDLE: No.

20 MR. SIDEMAN: What coding? It's got to
21 say Trader Joe's orange juice on the package. Is
22 there anything else on that packet?

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1 MR. RIDDLE: Yes.

2 MR. LOCKERETZ: A lot more.

3 MR. RIDDLE: Those are all plant numbers,
4 lot codes, everything.

5 MR. SIDEMAN: Lot codes. But Jim says
6 it's only there in -- where it's required to show the
7 plant number.

8 CHAIR BRICKEY: If you have the plant
9 number and the certification number.

10 MR. SIDEMAN: Wait a second. Let me get
11 my question. Should the lot number and plant number
12 be on every kind of product, chocolate chip cookies?

13 CHAIR BRICKEY: No. No.

14 MR. SIDEMAN: Canned -- no.

15 MS. BURTON: There is a link -- a
16 potential problem without this link, and it's easy to
17 fix and --

18 AUDIENCE MEMBER: Even if the lot code is
19 not on the product and it should be on the paperwork
20 that arrived with that product.

21 MS. BURTON: Right, but --

22 MR. SIDEMAN: Right, but that's not for

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1 the consumers, though.

2 MS. BURTON: Yes, that's not for
3 consumers.

4 CHAIR BRICKEY: We're talking about
5 occasions where somebody may have done something
6 illegal and we're trying to trace it back. We're not
7 talking about a perfectly normal situation or asking
8 somebody, is this your product and they're going to
9 say, yeah, right?

10 We're talking about a situation where
11 somebody may have violated the law by mislabeling.

12 MR. SIDEMAN: No. I'm talking about when
13 they may not have, if yours says Trader Joe's on the
14 package, then how can they trace it back to a lot
15 number? You're saying it's going to be on the
16 paperwork the store has, but the store may not know
17 when this guy bought that product.

18 MS. CAUGHLIN: And this could be a food
19 contamination issue. It could be a --

20 MR. SIEMON: I was going to say it's a
21 controlled brand, a brand that is Smucker's doing
22 something that is in fact not certified. It's the

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1 same issue. You've got Smucker product out there and
2 it says certified, and all of a sudden you want to
3 know which plant it comes from. I think we're making
4 this way over-complicated.

5 MR. SIDEMAN: Press it back to where the
6 problem is.

7 MS. BURTON: This is a request by the
8 industry to help clarify the language that's being
9 supported. So from a producer's standpoint and from
10 OTA's standpoint and the certifier's, it's going to
11 help clarify the issue.

12 So I mean, I'm in full support of this
13 language and I think it certainly will help ease
14 everybody's concerns.

15 MS. CAUGHLIN: Absolutely; with respect
16 to that I think it's really critical.

17 MR. SIDEMAN: And that's where I'm coming
18 from, too.

19 MS. CAUGHLIN: Absolutely critical.

20 MR. SIDEMAN: I think it's --

21 MS. CAUGHLIN: I'm sort of astounded at
22 the reaction.

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1 MR. RIDDLE: And also, it doesn't enforce
2 private labelers to get certified. They still have
3 the choice --

4 MS. BURTON: Yes.

5 MR. RIDDLE: -- to get certified or they
6 show the name of certified party.

7 MR. SIEMON: So then --

8 MR. RIDDLE: So there is traceability to
9 the certified party.

10 MR. SIEMON: Then why not make every
11 product put on there which plant it is?

12 MS. BURTON: No.

13 MR. SIEMON: No? What's the difference?

14 MS. BURTON: Because you still want to be
15 able to control some confidentiality.

16 MR. SIEMON: What's the difference?

17 MS. BURTON: You want to be able to
18 control confidentiality of where your contract
19 packing.

20 MS. CAUGHLIN: Definitely.

21 MS. BURTON: You're not going to put the
22 location of the contract packer.

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1 MS. CAUGHLIN: You're talking about a
2 code.

3 MR. SIEMON: No, but you're making these
4 people expose themselves when they choose not to be
5 certified.

6 MS. CAUGHLIN: That's their choice.

7 MS. BURTON: That is -- yes.

8 MR. RIDDLE: That's not clear.

9 MR. SIEMON: And the vulnerability's
10 still the same. We still can go out and manufacture
11 at a noncertified plant and use the package. You've
12 not done anything to reduce the vulnerability in that
13 way at all.

14 MR. CAUGHLIN: George, put the consumer
15 perception back in there and think about what -- I
16 mean -- the consumer and their need to know then, not
17 to have to go through this whole -- I mean, it's very
18 -- it becomes very muddy, cloudy from the consumer's
19 perspective.

20 MR. SIEMON: Yes, but we're talking about
21 being concerned about a product made in a plant, not
22 certified. We're talking about fraudulent behavior

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1 here.

2 MS. BURTON: No. We're talking about
3 feasibility for the certifier to track the product.

4 AUDIENCE MEMBER: From the audit trail.

5 MS. BURTON: Audit trail.

6 MS. CAUGHLIN: Yes.

7 MR. RIDDLE: We have two more comments
8 from certifiers and --

9 CHAIR BRICKEY: You're welcome to come
10 forward, but it's hard to listen to him from the back.

11 MR. RIDDLE: Yes, right. Please come on
12 up where we can hear you and get it on the record.

13 CHAIR BRICKEY: Quickly.

14 MR. RIDDLE: Yes.

15 MR. CARTER: I'm confused. Campaigning
16 the juice that you have, that's something that you're
17 marketing. You're marketing juice. It goes through a
18 plant. It goes through your corporate office.
19 They're going to have to go through all the records.

20 MS. BURTON: Correct.

21 MR. CARTER: Now, that's a service that
22 you've got that you're selling.

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1 MS. BURTON: Yes.

2 MR. CARTER: Now, somebody wants that
3 service.

4 MS. BURTON: Correct.

5 MR. CARTER: If they want that service,
6 then, as a private label, aren't you and the certifier
7 required to provide the records for that?

8 MS. BURTON: It depends. We're required
9 to provide documentation for, say, the raw materials
10 if we buy them. Yes, we are responsible for that.

11 MR. CARTER: But if you and the certifier
12 want to allow that label to continue on, the certified
13 product in your case and the label in the certifier's
14 case, then that certifier should be required to give
15 you --

16 MS. BURTON: Yes. It should either be --

17 MR. CARTER: I mean, I'm going off the
18 -- most of you put private label processing place, a
19 service place, and we base it entirely on the FPO's
20 criteria. There's nine criteria that that situation
21 has to meet, and the last one is a contract between
22 you, the private label person, and that has to be

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1 auditable at the time of the inspection by the
2 certifier.

3 I think in this discussion here if it's a
4 service that's being offered, the private label
5 individual wants it, then that private labeled
6 individual and that service, that company -- in this
7 case Smucker's -- has to be able to come to the
8 certifier and show a complete circle there.
9 Otherwise, it's not a private label.

10 I mean, if what I'm hearing here is that
11 this private label is loose, and Smucker's has no
12 control over it, but if they want to be able to sell
13 that product to a private label entity then they have
14 to be able to come to a certifier and show that
15 possible process.

16 MS. BURTON: Or have our name on the
17 label somewhere as a certified entity. Either we have
18 our name on that product or --

19 MR. CARTER: Well, that's part of what
20 I'm talking about.

21 MS. BURTON: Yes.

22 MR. CARTER: That name somewhere, either

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1 the plant or Smucker's would have to be there
2 somewhere.

3 MR. SIDEMAN: Okay, guys, we need to move
4 on. I'm stealing materials' time.

5 MR. LOCKERETZ: What else? George.

6 MR. SIEMON: One more thing. So if
7 you're concerned about this, then if the plant number
8 is on the package doesn't that satisfy this whole
9 concern?

10 AUDIENCE MEMBER: No.

11 MR. SIDEMAN: Oh, come on, you guys.

12 MR. SIEMON: Sorry. You said you wanted
13 to know where it was made. The plant number
14 identifies the plant. You've got a completely
15 auditable product now. I think you get the plant --

16 MR. SIDEMAN: But George, also, part of
17 the plant number isn't always there.

18 MR. SIEMON: No. I said, if it is on
19 there.

20 MR. SIDEMAN: How they going to make that
21 law?

22 MR. SIEMON: Well, right here you're

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1 saying that it has to be identified, where it was
2 produced. So why doesn't the plant number take care
3 of that?

4 MR. SIDEMAN: Oh, you're saying instead
5 of the certifier's.

6 MR. SIEMON: Yes.

7 MR. SIDEMAN: Oh.

8 CHAIR BRICKEY: Very quickly now wind it
9 up.

10 MR. SIDEMAN: I see. You're saying --

11 CHAIR BRICKEY: Lisa.

12 AUDIENCE MEMBER: Because when that plant
13 number is on a retail package in a grocery store --

14 CHAIR BRICKEY: It means nothing to --

15 AUDIENCE MEMBER: -- if I go into Trader
16 Joe's and I see that, that tells me nothing. If we
17 have a plant record at all in our records as a
18 certifier, it's buried in data and I can't get to it.

19 CHAIR BRICKEY: All right.

20 MR. SIDEMAN: I see what you're saying.

21 CHAIR BRICKEY: George, tell me what your
22 concern is about this? What's the problem from your

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1 standpoint?

2 MR. SIEMON: Well, the problem is, is
3 just that, like Dave just said, people like Smucker's
4 and us are selling private labels to people. We're
5 selling a complete program where we're taking care of
6 all their organic certification. We're doing all
7 that.

8 MR. SIDEMAN: Yes.

9 MR. SIEMON: It's a whole other
10 complication how Safeway's going to get certified.
11 It's a whole other complication to put their
12 competitors' bottling plant on their label, which is
13 often what you'd be doing.

14 You're complicating something, which I'd
15 be glad to do if you could convince me what you're
16 gaining from this, because I'm still not seeing,
17 because as Dave said, you have a complete package
18 you're selling, and then as -- or Jill said -- I'm
19 sorry -- Steve said, you get this notification you've
20 completed the circle.

21 You know, the audit's all there. I just
22 don't still see the issue and I deal with this all the

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1 time.

2 CHAIR BRICKEY: Bill, if you wanted to
3 say something.

4 AUDIENCE MEMBER: We have this exact
5 conflict going on right now, but I just wanted to make
6 a point since this is a branch of government, one
7 branch of the government, the BATF, to do an audit
8 trail on taxes requires all type of labels to say
9 where it was produced and bottled, federal law.

10 And they feel that that is important for
11 them to complete the cycle for their tax audit on that
12 alcohol product. So there is something to that
13 because we get the same thing, too. We'll have a
14 product.

15 They'll call us and say, did you certify
16 this product. Well, no, we didn't. However, from the
17 other perspective, you know, usually we have a pretty
18 solid system in place that we can find that product.
19 So in all honesty, there's two sides to the story.

20 But I do have to also point to the BATF.
21 For example, we do constant labeling for a lot of
22 people, and they have to have produced and bottled by

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1 the -- community whether they could go smoke in Pocoto
2 or anywhere. Basically, some GHF and that's all there
3 on the shelf. We are responsible for where that tax
4 money came from.

5 CHAIR BRICKEY: Okay. Diane.

6 AUDIENCE MEMBER: Just a quick comment.
7 I want to follow-up what Bill said. There is an
8 impact in the description that he just gave of the
9 BATF relationship. There isn't the third level that
10 we have with certification in there.

11 We have an additional audit level in
12 there where BATF has the only follow-up of why it
13 doesn't have that. Our certification acts as
14 insurance in that level. The comment that I want to
15 make, though, is addressed mostly to all these
16 clients, is the consumer perception.

17 We are in a very educated room here about
18 people who know about organic certification and what
19 that means. The majority of the American consumers
20 and international consumers look for certification.

21 If they're really educated I think that
22 it's highly unlikely that people would pick up

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1 something manufactured by, oh, let's say it's
2 Cascadian Farms or even Smucker's juice and look on
3 that bottle to see if there's another company in there
4 that has made that product, and not the name of the
5 company that's on the bottle.

6 I don't think most consumers are even
7 aware of the fact that a co-packer relationship even
8 exists. They don't know that. So I think that what
9 we've got here -- one thing that Diane said earlier,
10 too, is that -- I think you said it -- is that in
11 their certification requirements they must be notified
12 by the manufacturer -- I think that's what you said
13 -- by the manufacturer when you change relationships
14 with your co-packers.

15 It's your duty to notify the certifier
16 that you have changed your co-packer. So the
17 certifiers, it seems to me, have all this
18 documentation. If someone's saucy enough to want to
19 inquire about where a product comes from, the name of
20 the certifier is on the package regardless.

21 The certifier should be able to provide
22 that information at will.

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1 CHAIR BRICKEY: That doesn't answer
2 Pete's point about the fact that somebody calls and
3 says, I just bought Trader Joe's chocolate chip
4 cookies, and do certify to Trader Joe's, and he says,
5 no, I don't. That doesn't answer that question.

6 AUDIENCE MEMBER: Well, he should be able
7 to know who he certifies who sells to Trader Joe's.
8 That's what --

9 MR. SIDEMAN: What if he certified four
10 entities?

11 CHAIR BRICKEY: That's what we're --

12 MR. SIDEMAN: And Trader Joe's is using
13 it, and sometimes they use this.

14 CHAIR BRICKEY: That's right.

15 MR. SIDEMAN: And sometimes they use
16 that, and other times it just says Trader Joe's.

17 CHAIR BRICKEY: That's the point, is that
18 it --

19 MR. CARTER: And the basis of the
20 -- we've got here is that the whole problem of the
21 labeling structure is apparently a deceptive
22 structure. And we're trying to bring some honesty to

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1 the structure, because we're specifically trying to
2 convince consumers when they go in and buy the Safeway
3 private label it's not really Safeway's --

4 CHAIR BRICKEY: In the back of the store.

5 MR. CARTER: -- in the back of the store
6 they make it, and it's not. And so --

7 MR. SIDEMAN: No, I don't think that
8 anyone believes that. The thing with Trader Joe's,
9 they know that Trader Joe's doesn't have a chocolate
10 chip cookie bakery in the --

11 MR. CARTER: They don't at all.

12 AUDIENCE MEMBER: If I could just say one
13 little thing that might wrap it up. The way private
14 label works is sometimes -- it'll be really short.
15 Sometimes, you'll see four labels on a shelf and all
16 four labels can be made by the same company.

17 We're talking about brand identity and
18 sometimes those four products will be priced
19 differently. And so part of the reason for a
20 nondisclosure of who's producing it is just price
21 point and the issue of brand identity.

22 Very intelligent certifiers in this

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1 industry, if our certifiers can figure out a way to
2 make sure that the final company on the label can be
3 certified, but maybe under a different certification
4 structure or fee structure where basically they're
5 paying for the audit, and maybe even the company that
6 produces the product could take care of this fee
7 structure and it would be a fee to audit them.

8 It wouldn't be a full certification of
9 that. So if they have 1500 stores and they have a
10 certain amount of distribution sites, they become sort
11 of registered or something like this, and they pay the
12 fee. They're in the computer database as a
13 certification agency.

14 So you type Safeway in. There's the
15 products that they're registered to sell as organic.
16 Within the certification agency, so it's confidential,
17 are the companies that are selling them that product.

18 You see, it's just a figure --

19 MR. SIDEMAN: And then what you're saying
20 is then there'd have to be a number on that container
21 so that could be traced back to the particular lot.

22 AUDIENCE MEMBER: I don't -- I'm not --

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1 MR. SIDEMAN: See what I'm saying, is
2 it's got to say more than Trader Joe's juice if OTA --

3 AUDIENCE MEMBER: It says Trader Joe's
4 juice. It says, OFCA, and then you go to OFCA --

5 CHAIR BRICKEY: Everybody hurry. We got
6 to get through this and get out of here. Go.

7 AUDIENCE MEMBER: So it says Trader Joe's
8 juice.

9 CHAIR BRICKEY: Yes.

10 AUDIENCE MEMBER: Certified by OFCA. The
11 consumer calls OFCA, do you certify Trader Joe's
12 juice. OFCA looks at their computer and Trader Joe's
13 comes up with the six different organic companies that
14 sell juice to Trader Joe's, the plants where they're
15 made and then the actual audit trail is the same as it
16 is with the other products.

17 There is an audit trail and it varies
18 from audit trail -- titles and structures are similar
19 but vary a little bit, depending on the product. My
20 auditor over cantaloupes is different than my auditor
21 over a brick of cheese.

22 It's similar but it's just a little

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1 different, and I think our certifiers are whizzes and
2 that they'll be able to figure this out.

3 CHAIR BRICKEY: But you can't do that
4 now, Diane, under the current proposal of the Rule?

5 AUDIENCE MEMBER: It's not a requirement.

6 MR. SIDEMAN: Right.

7 CHAIR BRICKEY: What's not a requirement?

8 AUDIENCE MEMBER: There is no requirement
9 that the final private label distributor has any
10 relationship with the certification agency.

11 CHAIR BRICKEY: So the requirement is
12 that the retailer disclose to the certifier who these
13 people are. Is that what you're suggesting?

14 AUDIENCE MEMBER: That everybody will
15 create a relationship. Let me show you how -- may not
16 be -- you have a label, okay. You have the name of
17 your certifier here, and CCOF, for example. You have
18 a product. The Board can't see it.

19 MR. SIDEMAN: Who is this for?

20 AUDIENCE MEMBER: You have a product and
21 it's apple juice. A consumer calls and asks if Trader
22 Joe's apple juice is certified by CCOF. Right now,

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1 they don't have -- they have no connection between
2 Trader Joe's and CCOF. There's no link here.

3 What this is requesting is that you put
4 the certified entity on the label. So if this -- say
5 it's Smucker's. Underneath "distributed by Trader
6 Joe's," it's "certified by Smucker's."

7 MR. SIDEMAN: No. It can't say certified
8 by somebody. It's certified by CCOF.

9 MR. RIDDLE: That's what I want to get
10 at.

11 MS. BURTON: What is the language saying
12 underneath it?

13 MR. RIDDLE: That's what I want to get
14 to, is the actual language.

15 MS. BURTON: Okay. So what --

16 MR. RIDDLE: Because it says --

17 MR. SIDEMAN: Certified handler.

18 MS. BURTON: Certified handler.

19 MR. SIDEMAN: Does that mean --

20 MS. BURTON: Okay. That's exact -- see,
21 that's what they're asking.

22 MR. RIDDLE: I think there's more

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1 flexibility.

2 MS. BURTON: Okay. And we have no
3 problem with that in CCA or processors or contract
4 packers. Along with the name of the certified
5 handlers is a link back to Trader Joe's, back to --

6 AUDIENCE MEMBER: CCI. So that's why
7 there's the other choice in there, because for the
8 name -- whoever's the handler. It can be a co-packer
9 or --

10 CHAIR BRICKEY: All right. Listen. We
11 are short on time today. We've got to get out of
12 here. Just let me finish. Put your hand down and
13 relax. I'm just -- my assessment is we're not ready
14 for prime time here. This needs some more work.

15 It needs some more thinking before we get
16 through. We're not going to sit here and work all
17 this out. This is an issue to be continued to the
18 next meeting. Willie's submitting work product.
19 Other people in the audience who have expertise on
20 this will be called in to work this out, but we're not
21 going to do this today. We don't have time. All
22 right.

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1 MR. RIDDLE: The final point, I would
2 like to look at the actual language, the literal
3 language where it says on the information panel below
4 the information identifying the certified handler,
5 distributor. It does not say the name of the
6 certified handler, distributor.

7 It says information identifying. I think
8 that allows the kind of flexibility that Kelly was
9 presenting --

10 CHAIR BRICKEY: That's fine. Let's work
11 on that and make sure --

12 MR. RIDDLE: That's a name. That's the
13 way I read it.

14 MR. LOCKERETZ: Well, wait a minute.
15 They're still down --

16 CHAIR BRICKEY: I understand that, sir,
17 but you're getting it now. So I want this to be
18 worked out so that people understand and it makes
19 sense and it works, and I don't think we're going to
20 get there today. We've got to move on to other
21 business today.

22 MR. LOCKERETZ: Well, I think if -- the

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1 Board thinks they're ready.

2 CHAIR BRICKEY: I don't think they do.

3 MR. SIEMON: We're going to visit this
4 tomorrow, I suppose, correct?

5 CHAIR BRICKEY: Yes. I really --

6 MR. SIDEMAN: I don't know if Rick's
7 done, but I don't know what has to be done.

8 MR. RIDDLE: And I'd like Rick's opinion
9 on that information and identifying, and how much
10 flexibility. Does that only mean name or there --
11 could it mean plant number?

12 MR. SIDEMAN: I'd have to look at that.

13 MR. RIDDLE: Yes, certainly industries.

14 CHAIR BRICKEY: I mean, it seems to me
15 that with a little work this can be put together as a
16 proposal very effectively. It s just going to take a
17 little work. Okay. Next item.

18 MR. LOCKERETZ: Okay. Yes, as long as
19 Rick is done. We had asked -- we had talked about the
20 impermeable container issue, which we are not putting
21 forward. We decided not to propose that, but we
22 wanted clarification on the meaning of container as

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1 far as -- you know -- the distributor or handler, who
2 only deal with product in containers, to be exempt,
3 and did that mean impermeable containers or are there
4 questions whether a truck, a grain truck would count
5 as being a container.

6 And we're not proposing any change of
7 language now, but we wanted clarification on what
8 qualifies as a container, if you -- the other part I'm
9 talking about, okay, who's only handling stuff in
10 containers.

11 So we'd appreciate a clarification of
12 what that means. Okay. Two other items, likewise not
13 for a vote, apparently. I have done my -- one of my
14 periodic surveys of certifying agencies, asking how
15 things are going, and I got back 10 responses.

16 So in all fairness I have to say that
17 very likely, people who respond to such a survey,
18 select themselves out as those who have problems or
19 complaints. I think people -- I think we can
20 reasonably assume that this is a biased response.

21 However, even so, 10 certifieds are a
22 substantial body of certifiers, and even if they're

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1 not average, their concerns carry some weight. There
2 is -- well, first of all, as we heard yesterday, some
3 are dropping certification and are simply not going
4 to go for it. I have got a couple of those.

5 The main sentiments expressed were are
6 they feel under great time pressure to meet the
7 October 21 deadline. I got words like, breaking out
8 in a cold sweat, and other things like that, and one
9 plaintively weighed the possibility of an extension
10 and bumping the whole schedule to allow the
11 applications to be done right and to allow the
12 accreditation to be done right.

13 And I couldn't answer that person, but
14 there are a lot of people that say, you know, it's
15 extremely stressful and extremely difficult to get the
16 stuff in on time. Why? Well, one of the -- the most
17 frequently mentioned problem is getting information.

18 There's still lack of clarity on conflict
19 of interest. I've heard different things at different
20 times from different people. They've got lack of
21 clarity on the reasonable security provision, also. I
22 think we heard about that yesterday, as well.

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1 Some of them find that the standards
2 themselves are hard to interpret and difficult to
3 understand and said they had trouble getting answers
4 to their questions on the meaning of the various
5 standards, and this was especially true in livestock.

6 People specifically mentioned livestock
7 as a problem area. But several have said, you know,
8 we either get no answers to our questions or we get
9 conflicting answers from the same person at different
10 times or from two different people at the same time
11 and so forth.

12 In particular, several state certifiers
13 responded and they had drawn up a list of -- a long
14 list of questions some months ago which they asked NOP
15 and did not get answers to. They were concerned about
16 that.

17 They were also concerned -- now, this
18 applied to private and state, as well. The question
19 of do you apply for certification even if you haven't
20 done everything that you know you have to do? Is it
21 enough to submit your plan of action to come into full
22 compliance, or do you have to be in full compliance at

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1 the time you submitted your application?

2 They got conflicting answers on that and
3 this was of particular concern to the states, because
4 the states often are working under administrative
5 procedures legislation, and to change their program
6 for coming onto the NOP will require state
7 legislation, which is going to take some time.

8 Legislatures don't necessarily move so
9 quickly. So state are facing the problem of
10 statutorily not being able to be in full compliance by
11 the time they submit their application, but couldn't
12 get a clear answer as to whether you had to be or not.

13 And so it was a frequently mentioned
14 concern, which I call the, apply even if not rating,
15 question.

16 MR. RIDDLE: I don't think that's a
17 problem.

18 MR. LOCKERETZ: I only got answers that I
19 think restates -- I think I'm two or three -- I mean
20 that will vary from state to state, depending on what
21 their -- not all states necessarily are working under
22 a legislative guideline. Yes, Jim.

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1 MR. RIDDLE: Yes. And at the state's
2 training it was pretty much unanimous, that would be a
3 problem, and only California and Washington State are
4 really in motion to gear up, is where I see it among
5 contractor states.

6 CHAIR BRICKEY: Washington and Oregon?
7 Is that what you said?

8 MR. SIDEMAN: No, Washington and
9 California.

10 MR. LOCKERETZ: Other comments or
11 questions on any of this? This resonates with what
12 several of the public commentators had to say yesterday;
13 not surprisingly, some of the same people, in fact.
14 Okay.

15 If not, moving -- so those are the main
16 concerns, and I -- they were express pretty strongly
17 and pretty eloquently, I have to say, and pretty
18 convincingly. The last item concerned the FAQ page of
19 the NOP web site.

20 I don't have to think up a new joke as
21 the subject this time, because it's -- in my opinion I
22 think it's done quite well. Lots of questions

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1 answered in plain, simple English. My assignment was
2 to see are there any new issues raised by any of these
3 answers, questions and answers.

4 And I found a small one that I brought to
5 its attention by e-mail. I think it could easily be
6 dealt with. One of the -- in answer to one of the
7 questions it says that: "Organic products that enter
8 the chain of commerce before October 21, 2002, will
9 not be in violation of NOP regulations."

10 On the other hand, two questions about
11 that it says that as far as handlers or processors
12 using ingredients from operations that have not been
13 certified by a USDA accredited certifier, they must
14 stop doing that as of October 21st, 2002.

15 So there's a little bit of a conflict
16 there for if the ingredient of a processed product was
17 sold to a processor before October 21st and doesn't
18 carry the USDA label, now after October 21st that
19 processor wants to use that product to make -- that
20 ingredient in a product that will carry that
21 accreditation, it seems from the second of these
22 questions that that will not be allowed.

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1 And I think that there needs to be some
2 consideration of -- I think that these questions will
3 probably be -- what they had in mind was the product
4 is on its way to the retailer, and yes, if it's on its
5 way to the retail store before October 21st, it can be
6 sold after October 21st.

7 But I don't think it was considering the
8 raw ingredients made before October 21st, or what
9 happens to that processor after that, and then the
10 processor wants to use it. So I think that needs to
11 be -- I had to bring it to your attention.

12 Another generic item that I got from
13 looking at the FAQs, and also from the discussion of
14 the impermeable containers, there are a number of
15 exemptions and exclusions, the small farmer exemption
16 and so forth, the handlers who don't repack
17 exemption.

18 Those exemptions are not unconditional.
19 They often require partial compliance, something like
20 assuming the distributor has taken adequate steps to
21 prevent contamination by prohibited substances and
22 stuff like that.

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1 And likewise, the farmer under \$5,000.
2 It's not a blanket exemption, the farmer has to comply
3 with certain requirements. It occurred to me that
4 uncertified entities are not in the loop. They're not
5 in the system.

6 They system is right now all or nothing.
7 Either you're certified and get the full treatment,
8 or you're not in the system at all. But there are
9 these exempt and excluded operations that are
10 conditionally exempt and excluded where they have to
11 comply with certain things but there's no mechanism
12 for informing them of what those things are or for any
13 -- for dealing with possible violations or handling
14 complaints or verifying that they are meeting the
15 conditions.

16 It's an all or nothing system now and I
17 haven't thought this through. It just occurred to me
18 in the last few days in reading these questions and
19 thinking about our applicability recommendations, that
20 there needs to be some provision for the -- making
21 sure that the contingencies under which exemptions and
22 exclusions are granted are somehow not totally

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1 overlooked, but I have no idea exactly what format
2 that would take. But I think it's an issue that
3 deserves some consideration. Comments or questions,
4 reactions? Sorry?

5 MR. MATHEWS: You're basically addressing
6 an enforcement issue.

7 MR. LOCKERETZ: Enforcement, then. Yes,
8 but enforcement or dealing with complaints or kind of
9 overseeing in a partial way. I don't think that the
10 current mechanism will ever deals with the exempt but
11 not unconditionally exempted operation, but I think
12 that deserves some attention.

13 But we -- this is a new -- you know --
14 I've just thought of this in reviewing these FAQs, and
15 we haven't discussed or reflected on those things.

16 MR. MATHEWS: Well, the regulations
17 provide for people to bring alleged violations to our
18 attention, and then we would investigate them. So
19 really, it's neighbors ratting on neighbors.

20 MR. LOCKERETZ: That's what it --

21 CHAIR BRICKEY: Which is always a good
22 thing in agriculture, isn't it?

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1 MR. RIDDLE: Yes, I --

2 CHAIR BRICKEY: That's how it works.

3 MR. RIDDLE: -- or they can bring it to a
4 state organic program.

5 MR. LOCKERETZ: Sure.

6 MR. RIDDLE: File complaints with SOP or
7 NOP. But I would like to suggest a request that at
8 some future meeting that we have a presentation of AMS
9 Compliance on some of their enforcement mechanisms,
10 just so that we understand how they anticipate
11 investigating, or in general terms, they're the ones
12 who handled those two label violations.

13 I understand they were called in, or
14 -- at least, you know, just what that is, because I
15 get this answer when asking the question about
16 enforcement, well, AMS compliance will be brought in.

17 But we hear from FAS and we hear from some other
18 sister agencies or something; it would nice to hear
19 from AMS Compliance.

20 MR. LOCKERETZ: That's all, Madam
21 Chairman.

22 CHAIR BRICKEY: Thank you. Okay.

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1 MS. BURTON: Okay. All right. Board
2 members, this morning we passed out the list of review
3 materials to be reviewed and the order that they will
4 be going in. Find that. I'm also going to be passing
5 out our voting forms, and they're segregated into
6 three different categories crops, livestock
7 processing.

8 You will need to put your site name on
9 the form and as you vote you're going to need to list
10 the material and then check off how you're voting.
11 This is for documentation so that Tony can get the
12 votes accurately represented.

13 MR. HARPER: Kim, are we getting one or
14 two? Are you going to give us both today?

15 MS. BURTON: I will give you both forms
16 right now. I'll give you forms for everything.

17 MS. BURTON: You'll have two separate
18 forms. You'll have one for crops and livestock and
19 one for processing. If you want to keep your own
20 records, you can keep an extra copy. Okay. And I
21 would assume Tony wants this in pen. Do you want this
22 pen versus pencil. And change our votes --

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1 All right. Does everybody have their
2 forms in front of them?

3 MR. SIDEMAN: Yes.

4 MS. BURTON: Questions about the forms?

5 MR. SIDEMAN: Do you want duplicates?

6 MS. BURTON: There's extra space above
7 each form. Are we ready to go? Okay. So Board
8 members, you put your name on the form. We're going
9 to start with Owusu. Owusu is going to go through his
10 crop materials in the following order: monocalcium
11 phosphate, calcium chloride and then copper sulfate.

12 MR. BANDELE: I have one comment to make
13 and I don't know how best to proceed on one of those.

14 Now, we are -- the crop committee is prepared to deal
15 with the first two, monocalcium phosphate and calcium
16 chloride.

17 We are almost at closure on the copper
18 sulfate, but we were incorporating the -- the
19 presentations that were made yesterday has really
20 influenced that process. So we couldn't really be the
21 first to. Hopefully, by -- over lunch we could finish
22 the third one. So I don't know whether --

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1 MS. BURTON: Okay. That's fine.

2 MR. BANDELE: I don't know whether that's
3 okay.

4 MS. BURTON: Yes. We can put that one in
5 last, divert to last.

6 Eric.

7 MR. SIDEMAN: I'd like to back up for one
8 second. On these forms there's no place for the
9 annotation and many of us have voted -- the
10 annotation's included. And I think -- just telling
11 you for the record -- that it's true there's no place
12 for an annotation..

13 MS. BURTON: Tony, how do you want that
14 document done?

15 MR. MATHEWS: My form has the space for
16 annotation, that compiles everybody's form, so do you
17 need the annotation? I'll write it in.

18 MS. BURTON: And I'll document it also
19 that when we vote I can re-read it. How's that?

20 MR. SIDEMAN: Okay. And I'll note it
21 with a star, only with annotation on mine, because I
22 don't want 10 years from now, Eric Sideman being

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1 identified, I was voting for something.

2 MR. BANDELE: It won't take 10 years.

3 MS. BURTON: You ready, Owusu?

4 MR. BANDELE: Yes, I am. Okay. With the
5 monocalcium phosphate or triple super phosphate,
6 actually, it's a synthetic product because it's
7 produced mainly by the reaction with the monocalcium
8 phosphate, a rough phosphate with sulfuric acid. So
9 it's clearly synthetic.

10 Now, on another matter there would have
11 to be at some point, a point of clarity, because I'm
12 really not sure, and I asked Richard this morning on
13 this, and an accredited investigation I think is
14 needed. But I'm really not sure that, if in fact, if
15 the synthetic fertilizer because of the Act does that
16 mean it's automatically prohibited or does that mean
17 that that product can still be placed on the natural
18 list? I don't think it has that much relevance on
19 this particular one at this time, but I think it will
20 -- it can in the future.

21 That being said, the petitioner did not
22 petition this product for use as a fertilizer. The

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1 petitioner petitioned the product as an amendment in
2 the composting process. And the reason given was that
3 by including triple super phosphate, that that would
4 reduce the ammonium concentration, thereby conserving
5 nitrogen.

6 And there were also considerations with
7 pH. The reviewers unanimously ruled that it was
8 synthetic, and the reviewers also unanimously ruled
9 not to allow it. Several alternatives were mentioned
10 in terms of changing the carbon-nitrogen ratio, and
11 the use for manure, I think, was one.

12 So there were some alternatives and there
13 were a lot of potting mixes, as we all know, that can
14 be within the organic arena that would not require a
15 synthetic compound. As a matter of fact, I believe
16 Maine was the only state that allowed this product.

17 As far as the committee is concerned, the
18 committee voted unanimously that the product was
19 indeed synthetic, and the committee voted four to one
20 to prohibit it. That in a nutshell is the situation
21 with the triple super phosphate.

22 MR. SIDEMAN: Everyone on the Board, by

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1 the way, got a comment from the petitioner yesterday
2 on this material. I don't know if anyone had any time
3 to read it. I can't imagine when you would have found
4 time to read it.

5 MR. SIEMON: Really? Somebody should see
6 that.

7 MS. BURTON: It was in your packet
8 that --

9 MR. SIDEMAN: It was on the table when
10 you got here yesterday morning.

11 MR. SIEMON: Boy. Somebody show me what
12 it looks like.

13 MR. SIDEMAN: It was recent research that
14 the petitioner did showing that indeed nitrogen is
15 conserved in the pile when this material -- the
16 material is added to a compost pile. I don't know if
17 that was clear to everyone.

18 The material is used, added to a compost
19 pile to conserve nitrogen during the composting
20 process, and the handout was recent research showing
21 that, yes indeed, in a side by side pile the nitrogen
22 is definitely conserved.

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1 And then also in addition to that, there
2 was an additional carbon conserved in the compost
3 pile.

4 MR. BANDELE: The reviewers think that
5 there are alternatives to that, in terms of saving --
6 conserving the nitrogen.

7 MR. SIDEMAN: And the petitioner claims
8 that the alternatives don't work as well.

9 MR. SIEMON: That's the money-maker
10 document we got here?

11 MS. BURTON: Right.

12 MR. SIDEMAN: That's right, in the
13 documents.

14 MS. SIEMON: Thank you.

15 MS. BURTON: Any other discussion?

16 MR. CARTER: One question, because this
17 is also used as a mineral supplement in livestock
18 feed. So the action --

19 MR. SIDEMAN: It's definitely also on the
20 list as a permitted processing feed.

21 MR. CARTER: Yes.

22 MR. SIDEMAN: Processing aid.

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1 MR. CARTER: I'm sorry, what?

2 MR. SIDEMAN: This is on the list as a
3 permitted processing aid. Monocalcium phosphate is on
4 the natural list --

5 MR. CARTER: As a proven ingredient.

6 MR. SIDEMAN: As a proven ingredient.

7 AUDIENCE MEMBER: Can I at least perhaps
8 clarify something? The tap that you've done is for a
9 triple super phosphate, not that you've
10 made monocalcium phosphate. These are -- these have
11 different cast numbers. They're recognized as
12 different substances.

13 MR. CARTER: So the action we did on this
14 one --

15 AUDIENCE MEMBER: The action --

16 MR. CARTER: Doesn't -- that; that was my
17 question.

18 AUDIENCE MEMBER: -- of nutrient minerals
19 are allowed for livestock.

20 MR. CARTER: Okay.

21 AUDIENCE MEMBER: And that's on the
22 natural list. This is for crops.

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1 MS. BURTON: Okay. No further
2 discussion, we can go forward and vote whether it's a
3 synthetic or a natural.

4 MR. MATHEWS: Okay. I'll read out the --

5 MS. BURTON: Sure.

6 MR. MATHEWS: You want me to read it off
7 the list?

8 MS. BURTON: Yes, either you or Tony.

9 MR. MATHEWS: Okay. I've got it. Owusu.

10 MR. BANDELE: It's a synthetic.

11 MR. MATHEWS: Carolyn.

12 CHAIR BRICKEY: Synthetic.

13 MR. MATHEWS: Kim.

14 MS. BURTON: Synthetic.

15 MR. MATHEWS: Dave.

16 MR. CARTER: Synthetic.

17 MR. MATHEWS: Goldie.

18 MS. CAUGHLIN: Synthetic.

19 MR. MATHEWS: Becky.

20 MS. GOLDBURG: Synthetic.

21 MR. MATHEWS: Steven.

22 MR. HARPER: Synthetic.

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1 MR. MATHEWS: Mark.

2 MR. KING: Synthetic.

3 MR. MATHEWS: Rosie.

4 MS. KOENIG: Synthetic.

5 MR. MATHEWS: Bill.

6 MR. LOCKERETZ: Synthetic.

7 MR. WELSH: Synthetic.

8 MR. LOCKERETZ: Oh. Oh, you're Bill.

9 MS. BURTON: You're Willie.

10 MR. MATHEWS: I'll accept you both.

11 Jim.

12 MR. RIDDLE: Synthetic.

13 MR. MATHEWS: Eric.

14 MR. SIDEMAN: Synthetic.

15 MR. MATHEWS: George.

16 MR. SIEMON: Synthetic.

17 MR. MATHEWS: Okay. That's 14 synthetic,

18 one absent.

19 MS. BURTON: The committee's making a

20 recommendation --

21 MR. BANDELE: To prohibit.

22 MS. BURTON: Okay.

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1 MR. MATHEWS: Any annotation to this?

2 MR. BANDELE: What?

3 MR. MATHEWS: Your recommending to
4 prohibit -- all right. Owusu.

5 MR. BANDELE: Prohibit.

6 MR. SIDEMAN: Or actually, maybe
7 Richard's right. When I -- I'm on the committee and I
8 was the one vote to approve it, and that obviously was
9 with a very strong annotation that it only be allowed
10 as an additive to compost piles for the purpose of
11 conserving nitrogen and not to fortify phosphorous in
12 the compost.

13 CHAIR BRICKEY: But what would --

14 MR. SIDEMAN: So I don't know how you
15 handle that. That would be my annotation for my one
16 vote to approve it.

17 CHAIR BRICKEY: What we're voting for is
18 whether or not to accept the committee's
19 recommendation to prohibit.

20 MR. SIDEMAN: I thought we were voting to
21 approve or prohibit the material.

22 MS. BURTON: If there's an annotation we

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1 need to first vote on that annotation.

2 CHAIR BRICKEY: But you're not -- that's
3 not the committee --

4 MS. BURTON: That's not been a
5 recommendation.

6 MR. SIDEMAN: Okay. So that's the way it
7 goes. So that statement isn't being considered --

8 MS. BURTON: Right.

9 MR. MATHEWS: So there's no annotation
10 for consideration.

11 MS. BURTON: Right.

12 MR. MATHEWS: They're saying there is no
13 annotation.

14 MR. SIDEMAN: Before there is.

15 MR. MATHEWS: But what is being put
16 forth?

17 CHAIR BRICKEY: The committee's
18 recommendation --

19 AUDIENCE MEMBER: I don't see any
20 annotations. That's the basis of a theme.

21 CHAIR BRICKEY: Now if you vote for it.
22 If you vote no on the committee's recommendation and

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1 that point would be carried, then we have to come back
2 and look at the annotation.

3 MR. SIDEMAN: But I think we at least
4 have to bring up the point that there is an
5 alternative.

6 MR. MATHEWS: Right.

7 MR. SIDEMAN: And Mark's right. We have
8 to say -- the alternative has to improve the
9 annotation. Otherwise, people are not going to
10 consider it.

11 CHAIR BRICKEY: That's part of the
12 debate. That's not part of the motion. The motion is
13 to act on the committee's recommendation.

14 MR. HARPER: I think in the past that we
15 -- that there have been annotations moved from the
16 floor. I can't remember for sure, but --

17 MS. KOENIG: I thought we wanted -- we
18 just followed Robert's rule on this. Somebody
19 preferred the motion that was a committee.

20 CHAIR BRICKEY: Right.

21 MR. HARPER: Right.

22 MS. KOENIG: There was -- it opened for

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1 discussion.

2 CHAIR BRICKEY: Discussion.

3 MS. KOENIG: Somebody called a question.

4 MR. HARPER: Right.

5 MS. KOENIG: And then it was either
6 approved or -- you either agreed or disagreed with the
7 rule.

8 MR. HARPER: Right. But there were
9 motions that were made, and sometimes motions were
10 made.

11 MS. KOENIG: Correct.

12 MR. HARPER: And they had to vote on
13 them.

14 MR. CARTER: We can proffer November 5th
15 from the floor here to the committee report.

16 CHAIR BRICKEY: What's that?

17 MR. CARTER: Can you offer --

18 MS. BURTON: Emily has a suggestion. I'm
19 sorry.

20 AUDIENCE MEMBER: I did prepare a
21 processor going back in November of 2000. My
22 suggestion was that you take -- first you -- what

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1 you're trying to do is -- and that's why I haven't
2 reported in the database, too. So to be consistent
3 with the way you vote, you're going to add synthetic
4 to the list, okay?

5 MR. HARPER: Yes.

6 AUDIENCE MEMBER: So the question is, do
7 you want to vote to add this to the list or not? So
8 if you do not want to add it to the list you will vote
9 no.

10 CHAIR BRICKEY: Right.

11 AUDIENCE MEMBER: Now, the next question
12 might be, do you want to add it to the list -- or
13 actually, preferably, there should be three steps. Do
14 you want to add it to the list, with no annotation
15 first, because that means you're going to approve it
16 with just no conditions. And when you say you want to
17 add it to the list --

18 MS. BURTON: With an annotation.

19 AUDIENCE MEMBER: -- with an annotation,
20 and then if you did want to add an annotation, then
21 that one person could go ahead and list it.

22 CHAIR BRICKEY: Okay. Then we've over-

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1 compensated.

2 MR. MATHEWS: No, but it's necessary.

3 AUDIENCE MEMBER: But you still need to
4 vote. Do you want to -- you should be, like -- so
5 it's like a zero to 14. So we can list it here -- add
6 it to the list. Or because if it's a natural and you
7 want to add it to the list of prohibited naturals, the
8 question should be, should we add this to the list of
9 prohibited.

10 MS. BURTON: Rick.

11 MR. MATHEWS: I think the best thing to
12 do is just -- the committee has made a motion that the
13 substance be prohibited without an annotation. If
14 somebody wants to amend that motion to allow -- I
15 mean, allow with annotation, then we would have to
16 vote on the amendment.

17 MS. BURTON: Correct.

18 MR. MATHEWS: Then we would go back and
19 vote on the original panel.

20 MS. BURTON: Okay. Eric, do you have an
21 amendment to the -- do you have an annotation?

22 MR. SIDEMAN: I have an annotation, but

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1 it's not an amendment to the motion, because the
2 annotation's explaining why I'm voting to approve it.

3 MR. MATHEWS: Well, then that's not an
4 annotation.

5 MS. BURTON: Okay.

6 MR. SIDEMAN: No.

7 MR. MATHEWS: Okay.

8 MS. BURTON: Okay.

9 MR. MATHEWS: So we have a motion --

10 MS. BURTON: We have a motion.

11 MR. MATHEWS: -- to prohibit without
12 annotation --

13 MS. BURTON: Monocalcium phosphate.

14 MR. MATHEWS: Okay. Let's do this really
15 proper. Is there a second of that motion?

16 MS. KOENIG: I second.

17 MR. SIDEMAN: Yes, I'll do that.

18 MR. MATHEWS: Is there any discussion on
19 the motion?

20 MR. LOCKERETZ: No. No. No. No. No.

21 We have it seconded. I happen to plan to vote to
22 prohibit it, but I would like the annotation to be

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1 heard.

2 MS. KOENIG: Well, then you second the
3 motion and then you have discussion.

4 MR. KING: Then the only way you can do
5 that is with an amendment.

6 MR. LOCKERETZ: Well, you can't propose
7 an amendment which is to say the exact opposite of
8 what the motion is.

9 MR. MATHEWS: Yes, right the
10 other amendment is to vote no on the motion.

11 CHAIR BRICKEY: What should have happened
12 is you should have discussed your annotation --

13 MS. BURTON: Right.

14 CHAIR BRICKEY: -- during the table
15 discussion about what we would do.

16 MS. BURTON: Correct.

17 MR. MATHEWS: Right.

18 CHAIR BRICKEY: So then people would know
19 what it is.

20 MR. MATHEWS: Exactly.

21 MR. LOCKERETZ: No, but we need to know
22 what we're voting for or against.

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1 MS. KOENIG: Can I just propose a motion?

2 CHAIR BRICKEY: Rosie, propose a motion.

3 MS. KOENIG: I am proposing to not to add
4 it to the list.

5 CHAIR BRICKEY: Okay.

6 MS. BURTON: Jim had already seconded it.

7 MR. HARPER: I have a suggestion that
8 when people vote they say, "prohibit" and "approve"
9 instead of yes and no, so that they're not confused
10 about the vote.

11 MS. BURTON: Yes. Okay. We have a
12 motion --

13 MR. SIDEMAN: Can I hear what Brian's
14 trying to say first? Brian, did you have a comment?

15 BRIAN: I was just trying to get
16 clarification, and I'm sure everyone else is, too.
17 The current status of this material is prohibited.
18 Voting -- a vote is not needed to prohibit, because
19 that's the case already.

20 MR. MATHEWS: That's right.

21 BRIAN: And so it makes it unnecessary.

22 And if there's no motion to prohibit it, then -- and

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1 we move forward to the next item on the agenda.

2 MR. MATHEWS: That's right. The motion
3 should be to approve it.

4 MS. BURTON: Because it's an amendment to
5 the annotation.

6 MR. MATHEWS: And everyone who wants to
7 vote against that motion.

8 MR. SIDEMAN: Thank you, Brian.

9 MR. LOCKERETZ: But that motion could be
10 amended by an annotation.

11 MR. SIDEMAN: Right.

12 MR. LOCKERETZ: So we still want the
13 motion.

14 MR. SIDEMAN: And to make that motion,
15 I'd make it with the annotation. So I think that's
16 the right way, so.

17 CHAIR BRICKEY: Yes.

18 MR. SIDEMAN: So I guess -- take that
19 motion off the floor. That solves the problem.

20 MS. BURTON: Take that motion off the
21 floor, and we have a new motion.

22 MR. SIDEMAN: Yes. I would like to make

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1 a motion that monocalcium phosphate be added to the
2 natural list, with the annotation that it only be used
3 to conserve nitrogen and carbon in compost piles
4 during the process -- the compost process, and limited
5 -- not for fortifying the phosphorous level. Can I
6 write that down?

7 MS. BURTON: Say that?

8 MR. SIDEMAN: Richard's -- I have no
9 place to write it down on my form.

10 MR. MATHEWS: Well, I'm writing it up in
11 the same space you got.

12 MS. BURTON: Can you repeat that one more
13 time?

14 MR. MATHEWS: Well, I'm going to do that.
15 So go ahead. State it --

16 MR. SIDEMAN: Can I? I'm going to do it
17 exactly right.

18 AUDIENCE MEMBER: -- triple super
19 phosphate in your motion -- fertilizer that we're
20 talking about.

21 MR. SIDEMAN: Well, you know, there's a
22 debate on that between the petitioner and the staff

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1 reviewers as to -- yes.

2 MS. BURTON: Could you please state
3 your --

4 MR. SIDEMAN: We've got it written down
5 as monocalcium phosphate and I say we stay with that.

6 MR. BANDELE: But really, the tech
7 reviews say triple super phosphate.

8 MS. BURTON: Yes.

9 MR. SIDEMAN: And the petitioner said
10 monocalcium phosphate. Boy, we could spend a lot of
11 time.

12 MR. MATHEWS: So the annotation would be
13 just: "To conserve nitrogen in compost."

14 MR. SIDEMAN: And not used to fortify
15 phosphorous.

16 MR. MATHEWS: Well, or only --

17 CHAIR BRICKEY: You have to say what it
18 is, not what it's not.

19 MR. SIDEMAN: Right. All right. Only to
20 conserve the nitrogen in the compost pile.

21 MR. MATHEWS: In the compost pile.

22 MR. SIDEMAN: Right.

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1 MR. MATHEWS: Okay. Only to conserve
2 nitrogen in the compost pile, would be the annotation.

3 MR. SIDEMAN: That sounds good.

4 MR. MATHEWS: All right.

5 MR. SIDEMAN: And then your program
6 manuals would explain what that all means.

7 MR. MATHEWS: Okay.

8 MR. SIDEMAN: That's fine to me. That's
9 my motion; is there a second?

10 MR. LOCKERETZ: I second it.

11 MR. MATHEWS: Any discussion?

12 MS. BURTON: Any discussion?

13 MS. KOENIG: I disagree with it.

14 MS. BURTON: Jim.

15 MR. RIDDLE: Okay. Now, we're going to
16 discuss this on its merits. As an inspector I see
17 real problems enforcing this, determining how -- if
18 the material is being used only to conserve nitrogen
19 and not to boost phosphorous, because it is going to
20 boost phosphorous.

21 It is not -- the net effect is not only
22 to conserve nitrogen. It would never only do that.

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1 It would have other impacts, and it's -- a synthetic
2 material, to me, it's contrary to OFPA, and I
3 encourage us to reject this motion.

4 MR. SIDEMAN: There's a precedent set for
5 the only two where you look at the fish hydrolic
6 safety where we would allow phosphoric acid only to
7 adjust the pH, not for fortifying phosphorous in fish
8 emulsions.

9 CHAIR BRICKEY: The first thing that
10 occurred to me is that this goes back to our
11 discussion of EPA about annotations. I don't know
12 that this is an example where it would involve EPA
13 deliberations. But they would --

14 MR. SIDEMAN: No, they don't deal with
15 fertilizer.

16 CHAIR BRICKEY: No one deals with
17 fertilizers.

18 MR. SIDEMAN: The State Department does.

19 CHAIR BRICKEY: Nobody regulates
20 fertilizer, especially if the State Department does.
21 So the question that all these people have, can we
22 determine that only this, and how is that for

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1 enforcement that's my concern about annotations in
2 general. It's not just this one.

3 MR. RIDDLE: Yes. And the annotation is
4 not how it's manufactured, but actually, how the
5 farmer is using it --

6 CHAIR BRICKEY: Right.

7 MR. RIDDLE: -- which becomes much more
8 difficult.

9 CHAIR BRICKEY: And in your case in
10 point, even what s the effectiveness, regardless of
11 how the farmer's using it, even if he's using it
12 correctly, you're saying it's effectively for --

13 MR. RIDDLE: Yes.

14 MR. MATHEWS: Okay.

15 CHAIR BRICKEY: Rosie.

16 MS. KOENIG: I think I agree with Jim's
17 comment that even though it is in fish products in
18 that form, with that annotation, when you were talking
19 about your exceptions, it is -- when it comes to the
20 brand names process in terms of valuing products it's
21 so messy because, again, it's really hard to track
22 whether is this truly done for pH lowering or

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1 fortification. I just don't think we want to go
2 there.

3 CHAIR BRICKEY: Owusu.

4 MR. BANDELE: One other consideration may
5 be that even though the petitioner said it's not a
6 fertilizer, that does not necessarily make it so. And
7 it may open the door for other people to use other --
8 petition for other fertilizers mentioning some other
9 function.

10 MS. KOENIG: Okay.

11 CHAIR BRICKEY: Let's vote.

12 MS. BURTON: We have an amendment to the
13 -- proposal on to amend the annotation. Rick, would
14 you read that, please?

15 MR. MATHEWS: The proposal was only to
16 conserve nitrogen in the compost pile.

17 MS. BURTON: Okay.

18 MR. BANDELE: The proposal is to approve
19 it with that annotation, right?

20 MS. BURTON: Approve it with that
21 annotation.

22 MR. MATHEWS: Approve it with that

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1 annotation.

2 MS. BURTON: Okay. All for votes?

3 MR. BANDELE: Prohibit.

4 MR. MATHEWS: Carolyn.

5 CHAIR BRICKEY: Prohibit.

6 MR. MATHEWS: Kim.

7 MS. BURTON: Prohibit.

8 MR. MATHEWS: Dave.

9 MR. CARTER: Prohibit.

10 MR. MATHEWS: Goldie.

11 MS. CAUGHLIN: Prohibit.

12 MR. MATHEWS: Becky.

13 MS. GOLDBURG: Prohibit.

14 MR. MATHEWS: Steve.

15 MR. HARPER: Prohibit.

16 MR. MATHEWS: Mark.

17 MR. KING: Prohibit.

18 MR. MATHEWS: Rosie.

19 MS. KOENIG: Prohibit.

20 MR. MATHEWS: Willie.

21 MR. LOCKERETZ: Prohibit.

22 MR. MATHEWS: Jim.

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1 MR. RIDDLE: Prohibit.

2 MR. MATHEWS: Eric.

3 MR. SIDEMAN: Approve.

4 MR. MATHEWS: George.

5 MR. SIEMON: Prohibit.

6 MR. MATHEWS: Bill.

7 MR. WELSH: Prohibit.

8 MR. MATHEWS: Okay. One for approval and
9 13 to prohibit. The motion fails.

10 CHAIR BRICKEY: Calcium sulfate.

11 MS. BURTON: Calcium sulfate is our next
12 material.

13 MR. BANDELE: The calcium chloride as
14 exhibited in some of these states, petitioner is
15 asking concentrations as an inhibitor. It is
16 currently allowed for use in apples to control bitter
17 pits. And there are basically two processes made to
18 manufacture or to change the calcium chloride.

19 One is called the slow bake method, and
20 that method is a chemical reaction, and therefore,
21 would be synthetic. The second method is the Dow
22 process, and I think -- you have that process. And

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1 some of the thinking there is even though there are
2 others -- I think there's bromide added, chlorine gas,
3 I'm sorry.

4 And even though -- and then later on I
5 think it's calcium hydroxide. As far as that Dow
6 process is concerned, that's a process in which most
7 of the calcium chloride is obtained. The actual
8 chemical structure is not changed.

9 So it's viewed in that regard as a
10 nonsynthetic. So in other words, it could be treated
11 both as a synthetic or a nonsynthetic, depending on
12 the derivation of it. Now, there may be some question
13 as to even -- on that non -- if you're looking at the
14 Dow process, and because there's not really a chemical
15 change there in the calcium chloride, but actually,
16 that process is more of a purifying process and there
17 are certainly impurities removed, but the calcium
18 chloride remains unchanged.

19 So there may be some discussion as to
20 whether in fact it is a synthetic or nonsynthetic.
21 Our committee felt that it is nonsynthetic in that
22 particular case. So as far as the use is concerned of

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1 the petition, since calcium chloride in fact used for
2 a disease with the bitter pit of apple, there are
3 other diseases, mainly blossom end rot.

4 Blossom end rot is a physiological
5 disorder caused by -- it can be caused by insufficient
6 calcium. But it can occur even though there's
7 sufficient calcium according to soil tests. One thing
8 that contributes to this or that can contribute to it
9 is unequal water.

10 In other words, if a grower is irrigating
11 or even if he's not irrigating and there's a lot of
12 rainfall during one period, and then followed by a dry
13 period, those types of conditions can bring on a
14 disorder such as blossom end rot.

15 Some of you have probably seen it, the
16 black spots of the blossom of tomatoes and peppers and
17 watermelons and a host of other crops. So the feeling
18 was that if it is allowed to treat one disorder, then
19 it's logically that it should be allowed, with
20 annotations, to treat others.

21 MS. GOLDBURG: I think you should make
22 clear, Owusu, that the bitter pit in apples is a

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1 similar physiological disorder, strictly not a
2 disease, not primary.

3 MR. BANDELE: Right. Well, actually,
4 those are considered physiological diseases. So it's
5 not a disease caused by a pathogen --

6 MS. GOLDBURG: Right. Right.

7 MR. BANDELE: -- I think is what you
8 mean.

9 MS. GOLDBURG: Yes.

10 MR. BANDELE: So our vote was I think
11 unanimous in this case in that we -- actually, the
12 committee just dealt with the brine source -- I'm
13 sorry, the -- yes, with the Dow process. So the
14 reviewers considered both of the synthetic from the
15 other process, which was synthetic and disallowed.

16 But the one coming from the Dow process
17 was approved by two reviewers. And that's the action
18 that the committee took. We saw it as nonsynthetic,
19 the Dow source is nonsynthetic, but we were -- as
20 such, we are still asking that it be considered a
21 prohibited nonsynthetic, but with annotation,
22 prohibited unless nonsynthetic ground sources are used

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1 for spray, for treatments of documented nutrient
2 deficiencies.

3 MR. CARTER: That means you want to allow
4 the one, but with annotations.

5 MR. BANDELE: Yes.

6 MR. CARTER: Okay.

7 MS. BURTON: So how are we amending it.

8 MR. BANDELE: It's certified. I think
9 it's -- according to the reviewers that it's going to
10 be over 90 some percent is in fact obtained by the Dow
11 process.

12 CHAIR BRICKEY: And this may be it s not
13 a question at all, but I mean, why would we care about
14 the source in this case? Why don't we like the
15 synthetic source, just because it's synthetic?

16 MS. KOENIG: No, because if it was --
17 because the synthetic source could be construed as a
18 synthetic fertilizer.

19 MR. SIDEMAN: It's prohibited by OFCA.

20 MS. BURTON: Right.

21 MR. SIDEMAN: OFCA says you cannot use
22 synthetic macronutrient fertilizers, and that's what

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1 it is.

2 MR. BANDELE: Synthetic fertilizers,
3 period.

4 MS. BURTON: Yes.

5 MR. SIDEMAN: Well, we do allow
6 micronutrient sources, don't we?

7 MR. BANDELE: But see, that's the thing,
8 though, because that's a question -- back to the
9 question that was posed to Richard this morning, that
10 this in fact -- you can take the synthetic fertilizer
11 and put it on the national list.

12 I mean, that's still -- that hasn't been
13 answered yet. That's still open to interpretation.
14 So whether or not it's prohibited just because it's
15 synthetic, I'm not clear on it at this point. And I
16 don't guess anyone is, if Richard isn't.

17 MR. MATHEWS: Well, my understanding has
18 always been that fertilizers are prohibited, but the
19 Act also allows for other synthetics to be put on the
20 national list. So I think we have -- and Mark, can
21 you shed anything on that?

22 AUDIENCE MEMBER: Well, I mean, we have

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1 soil amendments that have micronutrients, that have
2 other materials, elemental materials.

3 MR. SIDEMAN: There's not a category.
4 There's categories for any synthetics to the list, and
5 fertilizers is not on the list. But I think it's
6 pretty clear that there's nothing for fertilizers.

7 CHAIR BRICKEY: But you say that's an
8 interpretation. What's the magic about micronutrient
9 versus macronutrient.

10 MR. BANDELE: It's still a fertilizer,
11 exactly. Is that the only thing?

12 MR. SIDEMAN: Well, I mean, there are
13 differences from an agronomic standpoint, in that
14 micronutrient deficiencies are easily influenced by
15 weather situations. And it's rare, and this is one of
16 those rare instances where weather can induce a
17 macronutrient deficiency.

18 CHAIR BRICKEY: Can what?

19 MR. SIDEMAN: I don't know if I should
20 speak --

21 MS. KOENIG: Weather induces its own
22 macronutrient deficiency.

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1 MR. BANDELE: I'm sorry. What was your
2 point again, Eric?

3 MR. SIDEMAN: That there are differences
4 in the way the nutrients agronomically are handled on
5 a farm, and micronutrient deficiencies are induced by
6 many environmental factors, where macronutrient
7 deficiencies are usually due to not having enough in
8 the soil.

9 CHAIR BRICKEY: And the soil was thinned
10 out -- Eric?

11 MR. SIDEMAN: I mean, there's a pH -- the
12 micronutrient's availability is dependent on pH and
13 temperature and moisture.

14 MR. BANDELE: Well, so is macro. Macro
15 is dependent on pH too, because low pH's tie up
16 phosphorous.

17 MR. SIDEMAN: Phosphorous, right.

18 MR. BANDELE: Nitrogen.

19 MR. SIDEMAN: Yes.

20 CHAIR BRICKEY: I can't understand from a
21 quality standpoint what implications this has if we
22 approve it. That's what I don't understand.

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1 AUDIENCE MEMBER: Well, I'm not sure that
2 there's one specific thing that missing. I think the
3 -- impact in OFCA. As I understand it, the only
4 exception would be CCA. There are so many exempt
5 categories that can be included, one being these
6 micronutrients.

7 MR. SIDEMAN: And that's what I was
8 trying to say. There's no place to allow it here.

9 AUDIENCE MEMBER: That's the starting
10 point.

11 CHAIR BRICKEY: You agree with that,
12 Anne?

13 AUDIENCE MEMBER: Yes, there is a section
14 prohibiting crop production, and it says: "The farmer
15 shall not use any fertilizers containing synthetic
16 ingredients or any -- fertilizers containing --

17 MR. HARPER: Can't hear her.

18 AUDIENCE MEMBER: And then it goes to
19 6517 as to the national list -- unless substance is
20 used in production -- active synthetic in the
21 following categories." And that was copper, sulfur --

22 CHAIR BRICKEY: When you said

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1 "interpret."

2 AUDIENCE MEMBER: Well, that's the
3 practice --

4 CHAIR BRICKEY: I guess I need to know
5 exactly how is that an interpretation versus within
6 the law. That's what I'm struggling with.

7 MR. SIDEMAN: I think it --

8 AUDIENCE MEMBER: -- is a general term.

9 MR. SIDEMAN: That's right. And
10 actually, from Webster's Dictionary, "mineral" would
11 include macronutrients, too. So that's why it's an
12 interpretation. And certifiers -- it's an
13 interpretation that's based on history because
14 certifiers have never allowed synthetic sources of
15 macronutrients, but have almost always allowed
16 synthetic micronutrients.

17 MS. BURTON: Again, it's been voted on,
18 this material, in the past, also.

19 MR. SIDEMAN: Calcium chloride is the
20 defoliant for copper.

21 MS. BURTON: Right.

22 MR. SIEMON: That's right.

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1 MS. BURTON: George.

2 MR. SIEMON: I wanted to ask you a
3 question about what NOSB did in the past. It says in
4 the start of the summary that they said it was
5 nonsynthetic, and yet, they said it was only used for
6 certain uses.

7 MS. BURTON: Correct.

8 MR. SIEMON: How is that shown in the
9 law, because if it's a nonsynthetic it's allowed for
10 all uses.

11 MS. BURTON: Correct. They served --

12 MR. SIEMON: So I'm confused by this
13 opening line. The next one is, I also see it's
14 completely allowed with no restrictions in processed
15 food products.

16 MS. BURTON: They addressed that earlier,
17 that it's a different composition in processed foods
18 versus crops.

19 AUDIENCE MEMBER ANNE: It's true.

20 MR. SIEMON: How would I, the dummy, know
21 the difference between calcium fluoride and calcium
22 chloride?

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1 MS. BURTON: We are looking at this
2 material for crops only.

3 MR. SIEMON: Okay. But so -- answer my
4 first question. How does it restrict it to the
5 defoliant and all this when it's natural that's
6 allowed? All right.

7 AUDIENCE MEMBER: It would go on the list
8 of prohibited naturals with an annotation.

9 MR. SIEMON: But it's not there now, is
10 it?

11 MR. SIDEMAN: No.

12 AUDIENCE MEMBER: No, they're not.

13 MR. SIEMON: So therefore, today, it's
14 already allowed for this purpose that's being asked
15 today.

16 MS. BURTON: No, because it has an
17 annotation.

18 MR. SIEMON: Where?

19 MS. BURTON: No, it's not in the Rule.

20 MR. SIEMON: It's not in the Rule, so
21 it's approved today.

22 MR. SIDEMAN: No.

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1 CHAIR BRICKEY: All right. One at a
2 time.

3 MR. SIDEMAN: Okay. George is right. If
4 we do not have, and we somehow declare this a natural,
5 then it approved and we have to list it as a
6 prohibited natural. It would be approved for all
7 uses.

8 MR. SIEMON: Today.

9 MR. SIDEMAN: Even unrestricted uses.

10 MR. SIEMON: So the motion would be to --
11 limit it to three uses. Go back and redo the work of
12 a defoliant, yes.

13 MR. SIDEMAN: No, we prohibit it as a
14 defoliant. It's not allowed as a defoliant.

15 MS. BURTON: Do we have a motion?

16 MR. SIEMON: I'm sorry. It's says -- to
17 allow and as an emergency defoliant, allow.

18 MR. SIDEMAN: Brian, you got a
19 clarification?

20 AUDIENCE MEMBER BRIAN: Yes. Actually,
21 George, let me try and help here. There are actually
22 two issues here. One is, if the stuff is pumped

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1 straight out of the briny well it's natural. If the
2 stuff is reacted from the soiling process of a
3 hydrochloric acid process, clearly synthetic, that's
4 prohibited right now under the Rule.

5 So you can't just go out and pull off the
6 shelf any source of calcium chloride because some of
7 it's synthetic, some of it's natural. The Dow process
8 there is a difference of opinion and the difference of
9 opinion on -- is two of them said the Dow point
10 process was synthetic. One said it's nonsynthetic.

11 The NOSB needs to take the information
12 provided by the petitioner and review it and as they
13 make a determination, Is it synthetic? And if it's
14 synthetic, it's prohibited. If it's natural, it's
15 allowed by default.

16 Now, the NOSB may or may not want to
17 consider, okay, this particular source is natural and
18 is therefore allowed for all uses. Does the NOSB want
19 to make a recommendation to prohibit that natural or
20 restrict it, too.

21 CHAIR BRICKEY: What was the petition?

22 AUDIENCE MEMBER: Okay. So I'm a

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1 petitioner. It is commonly interpreted and a NOSB
2 recommendation has been enforced regarding certifiers
3 to limit its use only in apples. That standard has
4 not been captured in the final rule because there were
5 a lot of restrictions. And so that didn't have a
6 place to go in the basic rule.

7 CHAIR BRICKEY: But what was the
8 petitioner asking for?

9 AUDIENCE MEMBER: The petitioner was
10 asking that it be allowed for -- to make sure that it
11 was allowed for a wide variety of uses.

12 MR. BANDELE: Foliar use only.

13 AUDIENCE MEMBER: Foliar and fertilizer
14 use.

15 CHAIR BRICKEY: Owusu --

16 MR. BANDELE: Yes. Because the foliar
17 use to me was because of a nutritional imbalance, a
18 physiological disorder. And so that's why if it's
19 allowed in the bitter case, then it should also -- it
20 was the committee's thinking it should be allowed for
21 these other crops, as well.

22 But since it's already with annotation,

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1 because we've had to add the annotation in here, it
2 gets to --

3 MR. SIDEMAN: The motion that we're
4 making would allow for bitter pit and for other
5 induced nutritional deficiencies.

6 MS. BURTON: It's not apparently on the
7 list, gang.

8 MS. GOLDBURG: It's not on mine.

9 CHAIR BRICKEY: One at a time, please.
10 This is confusing.

11 MS. BURTON: Okay. So Owusu's original
12 recommendation was that the committee thought that it
13 was a natural, and now they're discussing a motion for
14 it to be -- for the annotation for a prohibited
15 natural. Dave first, and then you can go, Rosie.

16 MR. CARTER: Well, to complicate things
17 so it is allowed under the Rule to be used as an
18 ingredient in foods. So we're struggling with what is
19 the difference between using it in the production of
20 food or putting in the food?

21 MS. KOENIG: All right. The committee --
22 the argument -- the committee voted that the Dow

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1 process was one of the nonsynthetic forms. So somehow
2 it has to be distinguished in the Rule so that only
3 that process is allowed and considered nonsynthetic,
4 and that's very important.

5 The other thing that the committee wanted
6 to stress is that it was not to be used as direct
7 application to soil. What we were recommending was as
8 foliar applied only. Okay.

9 MR. BANDELE: There's one other point,
10 that the Dow process has several steps. So you know,
11 and one step has impurities there, and that's still
12 nonsynthetic. But that second step, even though it
13 involves some synthetics, it doesn't really change the
14 reaction.

15 And after that second step it's more
16 pure, in a more pure form than the first. I know that
17 sounds confusing, but that's --

18 MS. GOLDBURG: It's something that
19 doesn't change the action. It doesn't change the
20 calcium chloride.

21 MR. BANDELE: Right, it doesn't change
22 the calcium chloride.

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1 MS. BURTON: Okay. So what we need to do
2 at this point -- just a second -- well, Bill, is your
3 comment --

4 MR. WELSH: So which process are we
5 voting on?

6 MS. BURTON: This is -- let me -- we are
7 discussing and right now we're going to vote on the
8 Dow process, whether it is considered a synthetic or a
9 natural. So that's what we're going to do right now.
10 Rick.

11 MR. LOCKERETZ: Clarification, please.

12 MS. BURTON: Sure.

13 MR. LOCKERETZ: When you buy the calcium
14 chloride off the shelf do you know what process it was
15 made by?

16 MR. SIEMON: But that's common in several
17 of our fertilizer issues.

18 MS. BURTON: What?

19 MR. SIEMON: You have to ask that
20 question with even other fertilizers.

21 MR. LOCKERETZ: Well, I'm asking it for
22 this calcium chloride.

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1 MR. SIDEMAN: And the manufacturer of a
2 brand name will know, I would assume.

3 MS. BURTON: Brine process? Okay.
4 Right. Okay.

5 MR. LOCKERETZ: But how will the process
6 be known to the farmer who buys this stuff?

7 MR. SIDEMAN: Right.

8 MS. BURTON: It'll be part of the organic
9 thing. You'll have to validate that it is part of the
10 brine class.

11 MR. SIDEMAN: And it will need brand name
12 review.

13 MR. KING: So this would be easy for a
14 grower to do? I mean, if they need to get natural
15 brine.

16 MS. BURTON: We're not in the discussion
17 part. Right now, we're trying to determine whether
18 this brine process is, a synthetic or a natural.

19 MR. CARTER: Madam Chair, would you tell
20 me what would happen if we did nothing on this?

21 MS. BURTON: It would be allowed.

22 CHAIR BRICKEY: I mean, I don't hear

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1 anybody.

2 MS. BURTON: It would be allowed without
3 any restrictive uses.

4 MR. LOCKERETZ: No, because we haven't
5 ruled on its naturalness, first.

6 MR. MATHEWS: That's right.

7 MR. SIDEMAN: Well, I disagree. I think
8 the manufacturer is probably going to get wind of this
9 conversation and will think of it as a natural.

10 MR. SIDEMAN: I'm sorry, Brian.

11 AUDIENCE MEMBER: I think the petitioner
12 is in --

13 MR. SIDEMAN: I think we want to act.

14 CHAIR BRICKEY: Pass at this point.

15 MR. SIDEMAN: Pass.

16 CHAIR BRICKEY: Would you stand up,
17 please.

18 AUDIENCE MEMBER: -- chemical spray named
19 Dowflick that's only made by that process and there is
20 a letter from Dow stating that in its position. You
21 could limit it to the brand name Dowflick.

22 MR. KING: Well, we can't do that.

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1 MS. BURTON: Okay. So does that answer
2 your question if it's available and known to the
3 person who's buying it? Mark?

4 MR. KING: Well, from my perspective I'm
5 just making sure that if a grower -- if this is
6 allowed, that they can distinguish, I mean, for audit
7 purposes, I mean, how to certify it, you know, I mean,
8 all the way through the system.

9 So I understand the brand name part of
10 it, but if we're going on a process, how is that going
11 to be cleared?

12 MS. BURTON: Okay. Rosie.

13 MS. KOENIG: Because it's how it will be
14 cleared on any product.

15 MS. BURTON: Right.

16 MS. KOENIG: You would specify in the
17 Rule that it's a brine process. Now, as a grower you
18 could not research it and you could lose your
19 certification. The safe way would be to go to OMRI
20 and see what materials have been examined that have
21 gone through that process. So it really is up to the
22 grower that that -- you know -- that's --

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1 MR. BANDELE: No. Before that, though --

2 MS. BURTON: Okay. Wait. Eric had his
3 hand up.

4 MR. SIDEMAN: I was just going to say
5 that -- Mark, that that's a common problem and I know
6 I could make a short list of things and I probably
7 could make a long list of things where they're both
8 natural and synthetic in the same product. It's hard
9 to tell apart by the consumer.

10 MR. KING: Okay.

11 MR. BANDELE: I was just wondering
12 whether the wording of "brine process" would be
13 limiting enough, because don't in fact the others
14 -- the other process I think also involves treatment
15 of brine.

16 MR. WELSH: Okay. I'm a producer. I've
17 got an emergency situation that I feel that I've got
18 to have calcium chloride on my plants. I go to a
19 store to buy it. How do I know which one I'm getting?

20 Are they going to be marked so that the
21 producer is not going to get himself in a situation
22 where he could be decertified by using the wrong

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1 product? How are we going to do and find out which
2 ones are permitted? You haven't even got time to do
3 all that; you're in an emergency situation.

4 MS. BURTON: You have to take the time,
5 really.

6 MR. WELSH: It's Friday afternoon when
7 there's nobody else in the office. What are you going
8 to do?

9 MR. SIDEMAN: Wait till Monday.

10 MS. BURTON: Rosie, do you have a
11 comment?

12 MS. KOENIG: That's the responsibility of
13 the grower. I mean, if you're an organic grower and
14 you go through certification, it's on you. If you
15 don't want to take the time or you want to take that
16 chance, you may lose your certification, and that's
17 why we have OMRI.

18 That's why we have these types of things.
19 That's where the distinction between the generic and
20 a brand, is you have to figure that out. You have to
21 research it.

22 MR. WELSH: Okay.

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1 MS. BURTON: Jim.

2 MR. RIDDLE: Yes, I would just point out,
3 it always is buyer beware, whether you're a farmer or
4 a processor. The cereal you choose to enter into the
5 system is still always going to be your
6 responsibility.

7 And actually, believe it or not, things
8 are better than they've ever been as far as getting
9 clarity on what is allowed and what's not, with all
10 the work that OMRI's done, plus one national list. So
11 it is getting better and there are web sites you can
12 go to for quicker answers.

13 MR. WELSH: But still, don't we have to
14 somehow or another clarify what we're actually voting
15 on here? Now, how --

16 MS. BURTON: Action from the Chair of the
17 committee for this material.

18 MR. BANDELE: So I'm making a motion that
19 first of all -- that --

20 MR. WELSH: Could we vote if it's
21 synthetic or not?

22 MR. BANDELE: Yes, because it's -- yes,

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1 we vote -- you can vote synthetic or nonsynthetic,
2 because if it's voted synthetic then -- moot.

3 MS. BURTON: Well, let's clarify the
4 materials, and it would be the brine process of
5 calcium chloride.

6 MR. WELSH: Right.

7 MS. BURTON: That's the material we're
8 going vote on, whether or not it's considered
9 synthetic or natural.

10 MR. KING: Brine and Dow in this case
11 being interchangeable.

12 MR. SIDEMAN: Yes.

13 MS. BURTON: But we can't --

14 MR. KING: I understand that. I just
15 wanted clarification.

16 MR. MATHEWS: Okay. We ready to vote on
17 it? Owusu?

18 MR. BANDELE: Natural.

19 MR. MATHEWS: Carolyn.

20 CHAIR BRICKEY: Natural.

21 MR. MATHEWS: Kim.

22 MS. BURTON: Natural.

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1 MR. MATHEWS: Dave.
2 MR. CARTER: Natural.
3 MR. MATHEWS: Goldie.
4 MS. CAUGHLIN: Natural.
5 MR. MATHEWS: Becky.
6 MS. GOLDBURG: Natural.
7 MR. MATHEWS: Steven.
8 MR. HARPER: Natural.
9 MR. MATHEWS: Mark.
10 MR. KING: Natural.
11 MR. MATHEWS: Rosie.
12 MS. KOENIG: Natural.
13 MR. MATHEWS: Willie.
14 MR. LOCKERETZ: Synthetic.
15 MR. MATHEWS: Jim.
16 MR. RIDDLE: Natural.
17 MR. MATHEWS: Eric.
18 MR. SIDEMAN: Natural.
19 MR. MATHEWS: George.
20 MR. SIEMON: I'm undecided -- natural.
21 MR. MATHEWS: Bill?
22 MR. WELSH: Natural.

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1 MR. MATHEWS: One synthetic and 13
2 natural.

3 MS. BURTON: Okay. Now, are there any
4 annotations on the -- it's considered a natural. Do
5 we have any annotations to include it on the
6 prohibited natural list? Yes.

7 MR. BANDELE: And that would be -- well,
8 actually, we're just dealing with the brine so I don't
9 think I have to say the first part of that, though.
10 So I could just say prohibited unless used for foliar
11 sprays for treatment of documented nutrient
12 deficiencies.

13 MR. CARTER: So the motion would be to
14 allow it with the specific annotation.

15 MR. LOCKERETZ: No. It's prohibit
16 except.

17 MR. CARTER: Except for the specific --

18 MS. BURTON: Can you say that one more
19 time so that he gets it?

20 MR. MATHEWS: I'm still trying to write
21 it down.

22 MS. BURTON: Right. So, Owusu, could you

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1 repeat it?

2 MR. BANDELE: Prohibited unless used for
3 foliar sprays for treatment of documented nutrient
4 deficiencies.

5 MS. BURTON: Discussion, Rosie?

6 MS. KOENIG: I think that in that
7 annotation you need to say "brine process handling,"
8 to clarify it.

9 MS. BURTON: So we have a recommendation
10 for amendment of the annotation.

11 MS. KOENIG: Right. It would say, "brine
12 process handling" --

13 MR. BANDELE: But we've already -- that's
14 part of it.

15 MS. BURTON: But we've already identified
16 it.

17 MR. SIDEMAN: No, it doesn't -- well --

18 MS. BURTON: All right. It's already
19 deemed as a natural, which is the brine process.

20 MS. KOENIG: But the natural process that
21 we're doing, so we need -- I agree that we're going to
22 have to figure that out, but I do think that there has

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1 to be an indication that shows not all forms are
2 natural.

3 MR. SIDEMAN: But you can't just list it
4 as calcium chloride. You got to list it as brine-
5 derived calcium chloride or some type of brine --

6 MS. KOENIG: Somewhere in the --

7 MS. BURTON: Okay. Steven.

8 MR. HARPER: I thought that the first
9 motion on voting on natural and synthetic we were
10 voting on brine --

11 MS. BURTON: Right.

12 MR. HARPER: -- process, also.

13 MR. HARPER: -- we're voting on it.

14 MS. BURTON: So it'll be brine --

15 MS. KOENIG: Brine process --

16 MR. SIDEMAN: I just wanted to make sure
17 they were listed that way.

18 MS. KOENIG: Only that way.

19 MS. BURTON: George?

20 MR. SIEMON: I'm still confused about the
21 previous NOSB's motions and work on this and why it
22 didn't get in the Rule. Don't we want to now include

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1 those two in here? I'm reading here that NOSB
2 originally voted to allow this. Now, we're -- we've
3 got to respect whatever, whenever, however NOSB did
4 that.

5 MR. SIDEMAN: Ann, did the NOSB vote to
6 allow calcium chloride as a defoliant?

7 MR. MATHEWS: No.

8 MR. SIDEMAN: I didn't think so.

9 MR. CARTER: But it's only for emergency
10 use only.

11 MR. SIEMON: Well, that's still allowed.

12 MR. KING: Still allowed.

13 AUDIENCE MEMBER: That was part of the
14 annotation and that's on the record from the
15 Indianapolis meetings.

16 MR. SIEMON: But it's not on --

17 CHAIR BRICKEY: But do they view it as a
18 natural?

19 AUDIENCE MEMBER: Yes, the vote was taken
20 from the straight brine of unprocessed, unpurified,
21 and their vote was to restrict that use.

22 MR. SIEMON: But it's not in the law --

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1 Rule today.

2 AUDIENCE MEMBER: And that recommendation
3 was not accepted.

4 MR. SIEMON: Oh, it was not accepted.

5 MR. KING: Not accepted.

6 MR. SIDEMAN: Can I ask Richard a
7 question, then? Was that not accepted on purpose or
8 was it an oversight?

9 MR. MATHEWS: I have no idea.

10 MR. KING: Well, you'd have to look at
11 the minutes from that meeting.

12 MR. SIEMON: Yes. We'd have to research
13 it in order to find out --

14 MR. SIDEMAN: Can I get a comment from --

15 AUDIENCE MEMBER BRIAN: If you want to
16 vote it's a prohibited material, you have to cite the
17 reason for the motion, and it's according to OFPA
18 because to prohibit a natural, you're supposed to do
19 it according to specific reasons, like whether it's
20 environmental damage or something like that. So the
21 motion has to have some type of reason for the
22 prohibition.

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1 MR. SIDEMAN: Thank you, Brian. That's
2 the reason, then.

3 MR. BANDELE: Well, the reason was we
4 were under the impression that it was already
5 prohibited except for the apple pip.

6 MR. LOCKERETZ: That's wrong.

7 MR. SIEMON: Well, that's what the TAP
8 reviewers told us in the opening sentence, so the
9 whole rest of the thing with that.

10 MR. MATHEWS: Well, the naturals are
11 allowed unless they're --

12 MS. KOENIG: Because the reason to
13 prohibit was the salt builds up in soils and that's
14 where we don't want it.

15 CHAIR BRICKEY: I'm sorry?

16 MS. KOENIG: The salt shows up in soils
17 so the reason why we feel that it should be annotated
18 and not just generally used as a natural is because of
19 environmental problems in agricultural systems, the
20 salt build-up from the chloride.

21 CHAIR BRICKEY: Okay.

22 MR. SIDEMAN: And actually, there's

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1 another reason why we're doing it.

2 MS. BURTON: Okay.

3 MR. SIDEMAN: Can I make an amendment to
4 the vote or offer an amendment to the vote?

5 MS. BURTON: Sure.

6 MR. SIDEMAN: And this leads to a
7 discussion. I was wondering where we say,
8 "Nutritional deficiencies" or do we say "Induced
9 nutritional deficiencies." I don't want it to be the
10 primary source of calcium to farmers.

11 MS. CAUGHLIN: What do you mean by
12 induce?

13 MR. SIDEMAN: Well, environmentally
14 induced.

15 MS. BURTON: The original -- Richard, re-
16 read the original annotation.

17 MR. MATHEWS: Okay. And I have a slight
18 problem with it. I think there's one word in here
19 that's wrong. It says:

20 "Prohibited unless used for foliar
21 sprays, documented nutrient
22 deficiencies."

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1 Do you think the word "document" is wrong?

2 MR. SIDEMAN: Correct that before --

3 MR. BANDELE: The treatment is
4 documented.

5 MR. MATHEWS: Oh, okay.

6 MS. BURTON: Okay. That's the original
7 motion on the report.

8 MR. SIDEMAN: And I'd like to present an
9 amendment that it's not any nutritional deficiency,
10 but only one induced by an environmental situation.
11 Foliar spray by environmental conditions.

12 MR. MATHEWS: Prohibited unless used for
13 foliar sprays for treatment of nutrient deficiencies -
14 -

15 MR. SIDEMAN: Treatment of
16 environmentally induced.

17 CHAIR BRICKEY: Hold on. Hold on. We're
18 starting to move now. This is exciting. Court
19 reporter can't hear what's being said.

20 MR. SIDEMAN: The reason I'm saying that
21 is because somebody may not have enough calcium in the
22 soil, and rather than treating a calcium deficiency

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1 that's in the soil with gypsum or limestone, they will
2 use a quick fix of a foliar spray.

3 And the organic principles that we agreed
4 to earlier are talking about taking care of crop
5 nutrition by feeding the soil, not the crops.

6 CHAIR BRICKEY: And the certifiers?

7 MR. SIDEMAN: The certifier will have to
8 verify that the calcium in the soil is being addressed
9 through other means, and if it's -- have to be a
10 tissue analysis to see if somehow the nutrient
11 deficiency of the crop --

12 MR. BANDELE: I would not really think of
13 this, because first of all, I think it'd be a
14 nightmare for the certifier, and secondly, blossom end
15 rot is such a widely occurring disease that on its own
16 merit to me it seems appropriate, because as I said
17 before, that is not necessarily connected to calcium
18 deficiency in the soil.

19 MR. SIDEMAN: You're not mentioning -- in
20 your annotation you're not mentioning diseases.
21 You're only mentioning nutrient deficiencies. That's
22 what I want to get at. If you can think of another

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1 way of doing it, somebody could come out and say, I
2 don't have enough calcium in my soil. I'll just have
3 to use calcium chloride.

4 MR. RIDDLE: I think you've captured the
5 reason why I'm opposed to approving the material at
6 all, really, because it's a band aid for not taking
7 care of your calcium --

8 MR. SIDEMAN: No. No. No.

9 MS. BURTON: No. No.

10 MR. SIDEMAN: Let me address that,
11 please. It can be used for both a nutrient deficiency
12 in the soil, which I want to not allow, but in certain
13 environmental situations where there's either too much
14 water, too little water, variable water, you can have
15 a physiologically induced nutrient deficiency, and the
16 plant can't translocate the material.

17 And that can come on all of the seven and
18 that's where we would like it, is an emergency
19 treatment for -- if you see blossom end rot developing
20 in your crops, not because you didn't take care of the
21 soil, but because it rained 17 inches last week, or it
22 hasn't rained since January.

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1 MR. RIDDLE: Right.

2 MS. BURTON: Okay. Rosie and then --

3 MS. KOENIG: I just wanted to back up
4 what Eric said. It has nothing necessarily to do with
5 how much calcium is in your soil. It's how it's
6 available during environmental stress, and it affects
7 the young growing tissue, like fruit.

8 So you have perfectly beautiful tomato
9 plants, once that, you know, plant starts -- you know
10 -- the fruits appear, if you don't have -- if you have
11 an erratic water supply or even drip irrigation, you
12 may have, you know, a drip system going, but because
13 it's not -- it snows, you know, through the water
14 you're just not getting that calcium to translocate
15 fast enough for the plant and it causes -- I mean, you
16 can have a huge amount of water.

17 MS. BURTON: Bill?

18 MR. WELSH: Are we saying here that this
19 is the only source of calcium that we can use for a
20 foliar spray?

21 MR. SIDEMAN: There isn't a big choice.
22 It's the only one being used now.

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1 AUDIENCE MEMBER: Calcium sulfate is also
2 being used.

3 MS. BURTON: Further discussion?

4 MR. BANDELE: I just wanted to point out
5 that one other aspect of this, the truthful situation
6 is that calcium is an immobile element. So it's not
7 going to move as quickly through the plant as
8 phosphorous and nitrogen and potassium.

9 The other thing, I'll ask a question.
10 Does anybody know anything about that bitter pip? Is
11 that a similar type of -- Becky, you mentioned it. Is
12 that a similar -- what brings that on and --

13 MS. GOLDBURG: Well, in our discussion, I
14 guess -- it's similar to calcium deficiency. You
15 mean, is it induced by environmental conditions?

16 MR. SIDEMAN: Which one?

17 MS. GOLDBURG: Bitter pip.

18 MR. BANDELE: Bitter pip.

19 AUDIENCE MEMBER: No. It's a calcium
20 translocation.

21 MS. GOLDBURG: Yes.

22 MR. BANDELE: Right. Okay. Fine.

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1 MS. BURTON: Jim.

2 MR. RIDDLE: Yes, I had a question about
3 the chloride impact on the soil and don't really find
4 enough information in the TAP review, and I just had
5 further questions. I mean, it mentions calcium
6 chloride may have a high salt index, but there's no
7 published salt index for it.

8 Application to the soil could lead to
9 chloride phytotoxicity. What else are the impacts on
10 the soil microorganisms?

11 MR. SIDEMAN: May I answer that?

12 MS. BURTON: Yes.

13 MR. RIDDLE: Yes.

14 MR. SIDEMAN: That's why the committee
15 only wanted to use the foliar spray and that's why I
16 only want it for physiologically induced nutrient
17 deficiencies, rather than as a primary source of
18 calcium, because of those reasons.

19 It is a risk and you don't want to be
20 using it regularly. You want to be using it as an
21 emergency treatment for the --

22 MR. RIDDLE: But there's another

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1 alternative for foliar calcium without the chloride
2 component.

3 MR. SIDEMAN: There is, and we may wind
4 up trying to talk about the risks and benefits of each
5 one. Maybe we'll have both of them inserted --

6 MS. BURTON: Rosie, did you have a
7 comment?

8 MS. KOENIG: Oh, I just wasn't sure that
9 people were clear, this would be included in 205.602.
10 It's approved with our restrictions. So I'm just not
11 sure if people are unclear, you know, as to where
12 we're voting on it to be located and approve it as a
13 natural, because we've already distinguished it was
14 natural, correct?

15 MS. BURTON: Yes.

16 MR. SIDEMAN: Yes.

17 MR. LOCKERETZ: Nonsynthetic is the word
18 I wrote down yesterday.

19 MS. BURTON: Okay, nonsynthetic.

20 MS. KOENIG: Okay.

21 MS. BURTON: We have a motion on the
22 floor. Is there any further discussion on it?

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1 MR. SIDEMAN: We need to --

2 MS. BURTON: Correct.

3 MR. MATHEWS: Well, but do you want me to
4 read the annotation as I have it now?

5 MS. BURTON: Read the annotation as you
6 have it now, yes.

7 MR. MATHEWS: Okay.

8 MR. WELSH: It's my understanding -- the
9 only way that we can have an annotation on it is if we
10 prohibit it.

11 MR. MATHEWS: Right.

12 MR. WELSH: We prohibit it with
13 annotation, right?

14 MS. BURTON: Prohibit it as an
15 annotation.

16 MR. MATHEWS: Brine processed calcium
17 chloride is prohibited unless used for foliar sprays
18 to treat environmentally induced nutrient deficiency.
19 Is that correct?

20 MS. BURTON: Sure.

21 MR. SIEMON: And therefore, if we go
22 ahead and vote on this, we're just going to ignore the

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1 previous work of NOSB, which we haven't had presented
2 here today? Not, it's not already there. It's not in
3 the Rule. It's been disregarded.

4 So are -- it seemed to me that somebody
5 went through a lot of work to get this discussed and
6 they should be at the table telling us what the heck,
7 where we stand, because I'm reading through this
8 status amongst U.S. certifiers and they've adapted
9 throughout the United States the apple -- bitter pip
10 in apples and the --

11 MS. KOENIG: Well, the bitter pip would
12 be included in our annotation. The only thing that
13 would be different would be that cotton foliar
14 -- defoliant. So can you read that defoliant?

15 MR. BANDELE: I have a clarification,
16 too, because I'm really opposed to the environmentally
17 induced, for reasons I cited. So that means I have to
18 vote down this first amendment and then reintroduce
19 the second?

20 MR. SIDEMAN: Would you say why you're
21 opposed to it again?

22 MR. BANDELE: Because I think it's going

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1 to be too hard to document that and because blossom
2 end rot is such a commonly occurring disorder.

3 MR. SIDEMAN: But it's environmentally
4 induced. It's --

5 MR. BANDELE: Yes, most of the time it
6 is.

7 MR. SIDEMAN: Well, the other times that
8 it -- when it's not it's because of poor soil.

9 MR. BANDELE: Right.

10 MR. SIDEMAN: It's either environmentally
11 induced or poor soil.

12 MR. BANDELE: Poor soil.

13 MR. SIDEMAN: And I want to avoid the
14 uses of the material for poor soil.

15 MS. BURTON: Okay. That would be
16 included, it's just like cotton. We have a
17 recommended annotation and a motion on the floor. We
18 need to vote on that.

19 CHAIR BRICKEY: We need to vote on
20 Eric's --

21 MS. BURTON: Right. Correct.

22 CHAIR BRICKEY: -- position -- amendment.

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1 MR. RIDDLE: Because I still didn't get
2 my question answered about chloride on soil organisms.

3 MS. BURTON: Okay. Well, if you have
4 further discussion, bring it up now.

5 MR. RIDDLE: Well, like the TAP
6 reviewers, if you could comment on the chloride impact
7 on soil organisms.

8 AUDIENCE MEMBER: We put before you what
9 we have. That's what you have.

10 MR. RIDDLE: Okay. I mean, I know -- I
11 hear what you're saying, but that's also -- that's a
12 valid concern and that's why it's limited to foliar
13 application, but even foliar application certainly
14 could have negative impacts.

15 And which -- is there a limit on foliar
16 application, what rate or how much per year? You
17 know, it's just -- we don't have the science on the
18 impact on soil organisms to answer the criteria under
19 OFPA and under the Rule.

20 AUDIENCE MEMBER: As far as that goes,
21 the rate used in a soil application would certainly be
22 much, much higher than those applied through foliar

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1 sprays.

2 MR. RIDDLE: Yes, but that doesn't answer
3 my question, still.

4 MS. BURTON: Dave, okay.

5 MR. CARTER: Well, this is just
6 procedural. I would suggest that we go through and
7 just vote, first of all, on Eric's amendment up or
8 down.

9 MR. SIDEMAN: Right.

10 MS. BURTON: Right.

11 MR. CARTER: That way, then we'll know
12 that the motion as amended or that it has original.

13 MR. RIDDLE: Up or down. Okay.

14 MS. BURTON: Okay. Call for a vote.

15 MR. RIDDLE: Read the motion again,
16 please.

17 MR. MATHEWS: Read the motion.

18 MS. BURTON: Eric's amendment.

19 MR. MATHEWS: Eric's motion is brine
20 process calcium chloride is prohibited unless used for
21 foliar sprays to treat environmentally induced
22 nutrient deficiencies.

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1 MR. BANDELE: Environmentally induced is
2 the chief thing here.

3 MS. BURTON: Okay.

4 MR. CARTER: So all we're voting on at
5 this point is adding the words, environmentally
6 induced to the wording.

7 MR. MATHEWS: Right.

8 MS. KOENIG: You took the word
9 "documented" out?

10 MS. BURTON: Yes.

11 MR. KING: Yes.

12 MR. MATHEWS: That word "documented,"
13 came out a long time ago.

14 MR. LOCKERETZ: So are we voting on the
15 amendment to insert the term "environmentally
16 induced"?

17 MR. MATHEWS: Yes.

18 MS. BURTON: Yes. Okay.

19 MR. MATHEWS: You're voting on Eric's
20 amendment to Owusu's --

21 MS. BURTON: Underlying motion.

22 MR. MATHEWS: -- underlying motion.

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1 MR. SIDEMAN: Right.

2 MR. LOCKERETZ: Okay.

3 MR. RIDDLE: Let's make sure we got the
4 underlying motion right, then.

5 MR. MATHEWS: Yes. So the underlying
6 motion would be, brine process calcium chloride is
7 prohibited unless used for foliar sprays to treat
8 nutrient deficiencies.

9 MR. BANDELE: Well, we had "documented."

10 MR. MATHEWS: Okay.

11 MR. BANDELE: Documented.

12 MR. MATHEWS: To treat documented.

13 MR. BANDELE: Documented nutrient
14 deficiencies.

15 MR. MATHEWS: Okay. Is documented --

16 MR. SIDEMAN: Right.

17 MR. MATHEWS: Okay.

18 MS. BURTON: Okay. So we're voting on
19 Eric's proposal.

20 MR. SIDEMAN: Right.

21 MR. MATHEWS: Okay. Everybody got that
22 straight, now?

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1 MR. BANDELE: Yes.
2 MR. MATHEWS: Okay. Owusu.
3 MR. BANDELE: No.
4 MR. MATHEWS: Carolyn.
5 CHAIR BRICKEY: No.
6 MR. MATHEWS: Kim.
7 MS. BURTON: No.
8 MR. MATHEWS: Dave.
9 MR. CARTER: No.
10 MR. MATHEWS: Goldie.
11 MS. CAUGHLIN: No.
12 MR. MATHEWS: Becky.
13 MS. GOLDBURG: Yes.
14 MR. MATHEWS: Steve.
15 MR. HARPER: No.
16 MR. MATHEWS: Mark.
17 MR. KING: No.
18 MR. MATHEWS: Rosie.
19 MS. KOENIG: Yes.
20 MR. MATHEWS: Willie.
21 MR. LOCKERETZ: Yes.
22 MR. MATHEWS: Jim.

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1 MR. RIDDLE: Yes.

2 MR. MATHEWS: Eric.

3 MR. SIDEMAN: Yes.

4 MR. MATHEWS: George.

5 MR. SIEMON: No.

6 MR. MATHEWS: And Bill.

7 MR. WELSH: Yes.

8 MR. MATHEWS: All right. Give me a
9 second.

10 MR. KING: What do we need here, a
11 majority?

12 MR. LOCKERETZ: Yes, it'd be a majority.

13 MR. WELSH: Two-thirds.

14 MR. MATHEWS: Two-thirds. The "nos" have
15 it eight to six.

16 MS. BURTON: Pardon? What?

17 MR. SIEMON: Nos.

18 CHAIR BRICKEY: The nos won.

19 MR. MATHEWS: Eight nos, six yes.

20 MS. BURTON: Okay. So now, we have to
21 vote on Owusu's original motion. Is that right,
22 again? Are we allowed to discuss it?

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1 MR. LOCKERETZ: No. The vote is over.

2 CHAIR BRICKEY: We need to get this done,
3 guys.

4 MR. MATHEWS: Let's go back to the
5 original motion, then. It's brine process calcium
6 chloride is prohibited unless used for foliar sprays
7 to treat documented nutrient deficiencies.

8 MS. KOENIG: Where are you going to --
9 where are the nutrient deficiencies, in the plant or
10 in the soil, natural causes?

11 MR. BANDELE: It could be -- yes.

12 MS. KOENIG: You have to -- because if
13 you check the soil you may not have a deficiency. So
14 you have to somehow clarify that or it doesn't make
15 sense.

16 MR. BANDELE: Well, actually, would not
17 the presence of the blossom end rot itself be a
18 documentation? If you got -- if you see the tomatoes
19 in your field with that, isn't that documentation?

20 MS. BURTON: Then say.

21 MR. BANDELE: No, because it could be
22 -- just like Rosie said also, it could be affecting of

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1 the leaf tissue, as well. So I would leave that kind
2 of open. That's why we --

3 MR. RIDDLE: A soil test to do.

4 MR. SIDEMAN: No, a soil test doesn't
5 tell you anything; translocation --

6 MR. BANDELE: Yes, but if you use that
7 documented nutrient deficiencies --

8 MS. BURTON: Steve.

9 MR. HARPER: How about the word
10 "evidential" instead of "documented"?

11 AUDIENCE MEMBER: Let me suggest just for
12 the sake of making life simpler for farmers and
13 inspectors that we be consistent with how we address
14 micronutrient documented deficiencies, and it requires
15 similar documentation procedures.

16 Otherwise, I would -- it gets too
17 complicated to have different procedures and different
18 materials.

19 MR. BANDELE: What are you recommending?

20 MR. SIDEMAN: What's your recommendation?

21 AUDIENCE MEMBER: That you adopt an
22 annotation that is similar to what you have for the

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1 synthetic trace mineral micronutrients that are --
2 specific language in 205.601(j)(6) -- be used that
3 says soil deficiency must be documented by testing.

4 MS. KOENIG: But the soil deficiency
5 won't work, I don't think.

6 MR. WELSH: But it says, those made from
7 -- are not allowed.

8 MR. SIDEMAN: Right.

9 CHAIR BRICKEY: I want you to read this
10 tomorrow after committee.

11 MR. LOCKERETZ: The problem is not the
12 documentation. The farmer's not going to put down
13 stuff when there's no need for it. The
14 documentation's the issue. The issue is emergency
15 versus routine.

16 MS. BURTON: Right.

17 MR. LOCKERETZ: Whether there is a
18 underlying calcium deficiency in the soil that leads
19 to a nutrient shortage all the time that should not be
20 curable by this material.

21 MS. BURTON: Right.

22 MR. RIDDLE: Right.

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1 MR. LOCKERETZ: So I don't care about the
2 document. I can trust a farmer not to throw out money
3 unnecessarily. If we reinsert the word "emergency,"
4 would that do it, "for correction of emergency"?

5 MR. RIDDLE: Yes.

6 MR. LOCKERETZ: For nutrient deficiencies
7 in the plant.

8 MS. BURTON: Yes. Okay. Rick, did you
9 get that?

10 MR. MATHEWS: Okay. Where are we going
11 to insert it?

12 AUDIENCE MEMBER: No. It's emergency
13 foliar spray.

14 MR. LOCKERETZ: Well, we've already said
15 foliar spray.

16 MR. LOCKERETZ: Nutrient deficiency in
17 the plant.

18 MS. BURTON: I don't know if you -- I
19 hate to complicate it, but --

20 MR. KING: Yes, right. "Documented" is
21 coming out?

22 MS. BURTON: "Documented" is coming out

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1 and "emergency" is being replaced. Is that -- well,
2 that's what he's asking.

3 MR. LOCKERETZ: Yes.

4 MS. BURTON: That's your --

5 MR. LOCKERETZ: Yes. An emergency would
6 rule out curing a soil deficiency by a plant or
7 nutrient. Emergency would rule out compensating for
8 soil deficiency by routine foliar spray.

9 MR. SIDEMAN: Yes, I like that.

10 MS. BURTON: Okay.

11 AUDIENCE MEMBER: From a practical point
12 of view I think that "documented" is pretty easy to
13 do. From a field person's point of view, you take the
14 soil test. If it's high you --

15 MR. SIDEMAN: We don't --

16 AUDIENCE MEMBER: -- is a lot easier to
17 --

18 MS. KOENIG: The only thing --

19 MR. SIDEMAN: But we don't want that.
20 It may be easier. We don't want it.

21 ? But that's not the point.

22 MS. BURTON: We have friendly amendment,

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1 Rosie, and then we're going to --

2 MS. KOENIG: The only thing in terms -- I
3 just want to way, in terms of documentation. In a
4 practical manner by the time you would get your tissue
5 samples back you've already had the crop lost.

6 MR. SIDEMAN: You can't use the tissue
7 sample to document blossom end rot.

8 MS. BURTON: Okay. Could you please read
9 the motion?

10 AUDIENCE MEMBER: There's going to need
11 to be some verification of what an emergency is,
12 because you know, within the Rule here we have a
13 definition of emergency as to the -- program, and for
14 a program authorized by the federal, state and local
15 agencies.

16 MS. KOENIG: If we could -- I have a
17 solution on that...

18 MS. BURTON: Rosie..

19 MS. KOENIG: I would say you needed to
20 call it physiological disorder

21 MS. BURTON:physiological disease,
22 because that's what it is. It's a disease.

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1 AUDIENCE MEMBER: But how would that
2 identify it as an emergency?

3 MR. SIDEMAN: No. Take out the word
4 "emergency." Take out the word "nutrient deficiency,"
5 put in "physiological disease."

6 AUDIENCE MEMBER: Is there a reason why
7 you can't just name the two disorders blossom end rot
8 and bitter pit?

9 MS. BURTON: OK. We have a friendly
10 amendment on the table. Is there a discussion to
11 change that. Would you please just read what you have
12 currently?

13 MR. MATHEWS: Okay. Now, I'm up to this:
14 "Brine process calcium chloride is
15 prohibited unless used for foliar sprays
16 to treat physiological disease."

17 MS. KOENIG: I would say, "physiological
18 disorder associated with calcium uptake."

19 MR. MATHEWS: Okay.

20 MS. KOENIG: Calcium uptake, very
21 specific. Can we review that please?
22Good.....let's do it again folks.

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1 MR. BANDELE: Good. I like that.

2 MS. KOENIG: Thanks.

3 MR. BANDELE: He can do the first part.

4 MR. MATHEWS: All right. Let's see if I
5 got it now:

6 "Brine process calcium chloride is
7 prohibited unless used for foliar sprays
8 to treat physiological disorder
9 associated" -- "treat a physiological
10 disorder associated with calcium uptake."

11 MR. LOCKERETZ: Okay. Now, regarding the
12 amendment.

13 MS. BURTON: That's better. Yes, that's
14 okay.

15 MR. LOCKERETZ: Those few new words that
16 were inserted.

17 MS. BURTON: Correct.

18 MR. MATHEWS: All right. Now --

19 MS. BURTON: I have one hand up.

20 MR. SIDEMAN: I wouldn't call on him.

21 (Laughter)

22 MR. RIDDLE: In the list under

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1 micronutrients -- and this is the point of discussion
2 -- whether calcium would classify in this use as
3 micronutrient supplement, well, or in -- in the decay
4 of the macros. I mean, when you back --

5 MR. BANDELE: No. No. No.

6 MS. BURTON: No. No.

7 MR. RIDDLE: -- the point is that it
8 clearly states, "those made from nitrates or chlorides
9 are not allowed."

10 MR. BANDELE: But those are two --

11 MR. RIDDLE: So I think if this is going
12 to pass we're going to have to deal with that, too.
13 We're not going to have a Rule that allows a chloride
14 here and prohibits a chloride there.

15 MR. BANDELE: Synthetic...there's a
16 difference.

17 MR. SIEMON: Those are listed under
18 synthetics.

19 MR. BANDELE: Not only that, magnesium
20 sulfur and calcium are also, are not micronutrients.

21 MR. SIEMON: Yes. This says
22 micronutrients. It doesn't even address this.

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1 MS. BURTON: Well, we can always make the
2 recommendation and enter it and then determine whether
3 or not it's just -- just synthetic --

4 MS. KOENIG: What George was saying was
5 true, because we're putting it under a natural, a
6 prohibited natural --

7 MS. BURTON: Right.

8 MS. KOENIG: -- it doesn't have to be
9 referred to in terms of that micronutriclause, because
10 we're listing it under --

11 MS. BURTON: Okay. So we're going to
12 call the vote -- call the question.

13 CHAIR BRICKEY: I think we should call
14 the whole question.

15 MR. SIEMON: Whose question is this?

16 MS. BURTON: Rosie's.

17 MR. BANDELE: Rosie's.

18 MR. SIEMON: Let's do the amendment.
19 Let's do it all together as one Rule.

20 MS. BURTON: Let's do it right now.

21 MR. BANDELE: Are there any objection to
22 the friendly amendment?

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1 Oh if it's a friendly amendment we could
2 just... ..

3 MR. BANDELE: Is there any objection?

4 MR. RIDDLE: No. No objection to the
5 friendly amendment.

6 MR. MATHEWS: All right. Now, we're
7 doing a vote?

8 MS. BURTON: We are doing a vote.

9 MS. KOENIG: Read it again; read it
10 again. If it's --

11 MS. BURTON: Just read it again.

12 MR. MATHEWS: Okay. What the vote is
13 going to be is to prohibit the following amendment
14 -- I mean --

15 MS. BURTON: Annotation.

16 MR. MATHEWS: -- annotation:

17 "Brine process calcium chloride is
18 prohibited unless used for foliar sprays
19 to treat a physiological disorder
20 associated with calcium uptake."

21 MR. BANDELE: I'll take it.

22 MR. MATHEWS: All right.

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1 MR. RIDDLE: A point of order. We forgot
2 on the first material to ask if there were any
3 conflicts, and I really think --

4 MS. BURTON: Okay.

5 MR. RIDDLE: -- we should try and be
6 squeaky clean on this.

7 MS. BURTON: Good point. Before we vote,
8 do we have any conflicts with this material?

9 MR. RIDDLE: Does anyone.

10 MS. BURTON: Does anyone? Okay.

11 MR. RIDDLE: I just hope it -- someone's
12 -- list. Okay.

13 MR. MATHEWS: Okay. Let's be real clear
14 on what we're doing here. We are voting to prohibit
15 with annotation. Okay. All right. Owusu.

16 MR. BANDELE: Yes.

17 MR. RIDDLE: We've got to say the words
18 prohibit or approve.

19 MR. MATHEWS: Say prohibit or approve --
20 prohibit.

21 MR. BANDELE: Prohibit.

22 MR. MATHEWS: Carolyn.

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1 CHAIR BRICKEY: Approve.

2 MR. MATHEWS: Kim. Wait a minute.

3 MR. RIDDLE: What does that mean?

4 MR. MATHEWS: What does that mean?

5 CHAIR BRICKEY: I am not voting to
6 prohibit this material.

7 MR. MATHEWS: Okay. Okay. That's right.

8 CHAIR BRICKEY: Yes. I don't believe
9 that the case has been made to prohibit.

10 MR. LOCKERETZ: Okay. Well, there's no
11 discussion on the floor.

12 MR. MATHEWS: Kim.

13 MS. BURTON: Prohibit.

14 MR. MATHEWS: Dave.

15 MR. CARTER: Prohibit, with the
16 annotation.

17 MR. MATHEWS: Goldie.

18 MS. CAUGHLIN: Prohibit with the
19 annotation, yes.

20 MR. MATHEWS: Becky.

21 MS. GOLDBURG: Prohibit with annotation.

22 MR. MATHEWS: Steve.

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1 MR. HARPER: Prohibit with annotation.

2 MR. MATHEWS: Mark.

3 MR. KING: Prohibit with the accepted
4 annotation.

5 MR. MATHEWS: Rosie.

6 MS. KOENIG: Prohibit with annotation.

7 MR. MATHEWS: Willie.

8 MR. LOCKERETZ: Prohibit with annotation.

9 MR. MATHEWS: Jim.

10 MR. RIDDLE: Prohibit with no annotation.

11 MR. SIEMON: So that's the same message,
12 prohibit with --

13 MR. RIDDLE: Well, I think we should have
14 that choice with that vote. That's why you should be
15 voting just to prohibit and not add the annotation.

16 MR. MATHEWS: Prohibit with annotation.
17 George.

18 MR. SIEMON: Yes.

19 MR. MATHEWS: Bill.

20 MR. WELSH: Prohibit with annotation.

21 MR. MATHEWS: All right. So we have one
22 voting to prohibit with annotation.

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1 MR. LOCKERETZ: Question for you -- if
2 the naturalness or the syntheticity of a substance is
3 in dispute, what's the status -- if the materials
4 where we don't know, whether it's arguable whether
5 it's a synthetic or not and it hasn't been -- here we
6 voted on this particular substance so far, but are
7 hosts of substances that are marginally synthetic or
8 marginally nonsynthetic.

9 Whether they allow it or not depends
10 critically on that decision, what is their status if
11 we haven't made that decision?

12 MR. MATHEWS: Talk to the individual
13 -- if they think it's a synthetic then they're not
14 going to use it. If they think it's a natural,
15 they'll use it.

16 MR. LOCKERETZ: No, as far as the
17 standards, as far as its being certifiable.

18 (Indiscernible discussion)

19 MR. LOCKERETZ: But whether the stuff is
20 synthetic is a matter of controversy.

21 MR. BANDELE: Correct.

22 MR. MATHEWS: Yes. That's why the

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1 petitioner has to come to you.

2 MR. LOCKERETZ: No, but you don't
3 petition for a decision on syntheticity. You
4 petition for permitted use if it's synthetic, or
5 disallowed use if it's --

6 CHAIR BRICKEY: You could petition to
7 determine if something's synthetic or not.

8 MR. LOCKERETZ: Yes. But I would ask
9 that through this meeting that we keep a list of
10 things that have already been determined that they are
11 natural, so at least people can learn from our
12 previous talks.

13 MR. SIDEMAN: This is a very important
14 part, because somebody who believes their product is
15 natural may choose not to petition and not to bring it
16 up to the surface for discussion.

17 MS. BURTON: Right. Quickly, Brandon,
18 -I'm going to turn it back over to you....

19 AUDIENCE MEMBER: Really, the petition
20 was for clarification -- is my understanding, and this
21 Board makes a recommendation, and you're on the record
22 as saying this is not synthetic.

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1 MR. LOCKERETZ: No. I'm not talking
2 about this substance. We voted this substance. I'm
3 talking about substances that don't come before us,
4 because their naturalness -- whose naturalness is
5 ambiguous.

6 MS. BURTON: All right.

7 MR. BANDELE: Carolyn, I have one quick
8 question on this same thing. Do we need to vote on
9 the -- do we need to prohibit the solvate method?

10 MR. LOCKERETZ: You have to vote whether
11 it's synthetic or not.

12 MR. BANDELE: Yes, for clarification.

13 CHAIR BRICKEY: No. No. We voted to
14 prohibit except for this method.

15 MR. LOCKERETZ: We haven't voted on the
16 other processed materials as being synthetic or not.

17 MR. BANDELE: Right. That's what I'm
18 saying.

19 MS. BURTON: Yes.

20 MR. MATHEWS: Just for clarification.

21 MR. RIDDLE: I move that it be synthetic.

22 MS. BURTON: Okay.

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1 MR. MATHEWS: All other forms f --

2 MS. BURTON: Okay. So we are taking a
3 vote on whether the other --

4 MR. BANDELE: The solvate method.

5 MS. BURTON: -- the solvate method is the
6 synthetic.

7 MR. BANDELE: Yes.

8 MR. MATHEWS: Okay. Hold on a second.
9 I've only got one form and I've got black ink and I
10 have to borrow a blue pen.

11 MR. MATHEWS: Now, the first one we did
12 was the brine process.

13 MR. BANDELE: Right.

14 MR. MATHEWS: Now, what are we doing?

15 MR. SIEMON: We're trying to say is it
16 clear that the non-brine are clearly prohibited

1 because they're synthetic.

2 MR. RIDDLE: Synthetic.

3 MR. SIEMON: Then we should take
4 advantage of the opportunity to declare them to be
5 synthetic. That's what we're --

6 MR. RIDDLE: Right.

7 MS. BURTON: Okay.

8 MR. MATHEWS: Okay. So non-brine
9 process, we are now voting whether it is synthetic or
10 natural.

11 MS. BURTON: Correct.

12 MR. LOCKERETZ: All non-brine processes.

13 MS. BURTON: Yes, hydrochloric and
14 solvates.

15 MR. KING: Yes.

16 MR. MATHEWS: Okay. All non-brine
17 processes, we're voting whether it's synthetic or not.
18 Owusu.

19 MR. BANDELE: Synthetic.

20 MR. MATHEWS: Carolyn.

21 CHAIR BRICKEY: Synthetic.

22 MR. MATHEWS: Kim.

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1 MS. BURTON: Synthetic.
2 MR. MATHEWS: Dave.
3 MR. CARTER: Synthetic.
4 MR. MATHEWS: Goldie.
5 MS. CAUGHLIN: Synthetic.
6 MR. MATHEWS: Becky.
7 MS. GOLDBURG: Synthetic.
8 MR. MATHEWS: Steve.
9 MR. HARPER: No.
10 MR. MATHEWS: Mark.
11 MR. KING: Synthetic.
12 MR. MATHEWS: Rosie.
13 MS. KOENIG: Synthetic.
14 MR. MATHEWS: Willie.
15 MR. LOCKERETZ: Synthetic.
16 MR. MATHEWS: Jim.
17 MR. RIDDLE: Synthetic.
18 MR. MATHEWS: Eric.
19 MR. SIDEMAN: Synthetic.
20 MR. MATHEWS: George.
21 MR. SIEMON: Synthetic.
22 MR. MATHEWS: Bill.

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1 MR. WELSH: Synthetic.

2 MR. MATHEWS: All right. That's 14.

3 That's it.

4 MS. BURTON: All right.

5 MR. BANDELE: To get this on the public
6 record can it be included as a parenthetical remark
7 under the brine thing, the brine process start with
8 parenthesis in a separate vote for NOSB, voted that
9 this is -- that other --

10 MR. MATHEWS: So we're going to list it
11 as a prohibited synthetic.

12 MR. LOCKERETZ: No, but it doesn't get --

13 MR. MATHEWS: I mean -- yes, you're
14 right. You're right. We're going to --

15 MR. LOCKERETZ: Just to put it on the
16 record --

17 MR. RIDDLE: Wouldn't that go in the
18 preamble when it goes to Rule, maybe you explain the
19 decision?

20 MR. SIDEMAN: Right.

21 MR. LOCKERETZ: So that people know that
22 this vote was taken.

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1 MR. MATHEWS: Right.

2 CHAIR BRICKEY: All right. Okay. We're
3 going to take --

4 MR. MATHEWS: Wait a minute. Are we
5 going on it now?

6 CHAIR BRICKEY: The Chair would like to
7 suggest that we reconvene at 1:30.

8 MS. BURTON: It's 1:00 o'clock.

9 CHAIR BRICKEY: I know what time it is.
10 It is the Chair's intention, having agreement with the
11 livestock committee chair, that when we resume we will
12 begin with the processing materials, and complete the
13 processing materials, come back to livestock and then
14 go to the third prong.

15 I'm going to ask that this will be
16 reserved until 6:00 o'clock, and I hope everyone will
17 take a little opportunity to rehearse for the next
18 stage.

19 MR. SIEMON: To do what? Rehearse?

20 MR. SIDEMAN: And listen, those people
21 interested in the livestock issue, the body of the
22 livestock committee's discussion and conclusion is in

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1 your handout that you got from Mark if you're in the
2 audience, and in your book if you're on the Board, and
3 please read it.

4 (Whereupon, the foregoing Meeting went
5 off the record 1:04 p.m., and went back
6 on the record at 1:56 p.m.)
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A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

(1:56 p.m.)

MS. BURTON: We're going to start with the processing materials. So you should have your second voting form out, the processing materials.

MS. KING: Okay. We're coming back to that.

MR. HARPER: Okay. Everybody ready?

MS. BURTON: Yes.

MR. HARPER: One thing -- the first thing that's on our list is boiler water additives that we deferred action on last time until this meeting. And so as part of the discussion on boiler water additives I wanted -- if you remember last time, we deferred them for more information regarding compilation of results from the processors' survey that was done, a questionnaire as well as FOIA materials on all of these boiler water additives.

And there was another potential survey we were doing to do, understanding what the certifiers were really doing. And so we did receive FOIA materials on four of the five materials, and then I

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1 did a compilation of the processors' questionnaire
2 that was put out.

3 And so I'm going to go through, and all
4 the Board members here have a -- I passed this out, it
5 should be on top of the piles, hopefully. This is a
6 summary of the organic process, a questionnaire that
7 was sent out. So I want to run through this very
8 quick.

9 This was developed by the processing
10 committee and sent out requesting information on the
11 use of volatile amines in the processing of organic
12 food. Fifty-six different processors responded, and
13 these are primarily located in the western part of the
14 United States.

15 And so here's the following summary
16 information. Forty-three of the processors use steam
17 in direct contact with food, and that means it
18 actually comes in contact with food in some way.
19 Thirteen of the processors use steam that does not
20 come in contact with food, such as just as in a
21 heating -- steam jacketed kettles so the steam is in
22 the jacket and does not come in contact with the food.

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1 On the question of the use of volatile
2 amines, 21 of these 43 -- I'm just talking -- the next
3 section is just the 43 that actually come into contact
4 with steam -- or with food. Twenty-one turn off the
5 volatile amines when processing organic foods. And
6 that's been open to questions of certifiers.

7 Eleven of them use volatile amines when
8 processing organic food and all of these are certified
9 operations. So they have gotten exceptions from the
10 certifiers, even though the certifiers all indicated
11 that they do not allow volatile amines as their
12 general policy.

13 Two, we couldn't tell by the results, we
14 think they possibly use volatile amines when
15 processing organic food, and eight or nine of these
16 people have water quality such that they do not need
17 to use any volatile amines in their plant at all.

18 CHAIR BRICKEY: What does that mean?

19 MR. HARPER: What that means is that they
20 have -- the hardness is so low, they don't have any
21 carbonates in their water, that they don't have the
22 issue of corrosivity.

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1 CHAIR BRICKEY: Corrosivity?

2 MR. HARPER: Corrosivity, right,
3 corrosivity through the pipes, or very extremely
4 minimal problems with it. It's not worth using the
5 chemicals. And the question, you know, how processors
6 operate to eliminate the need for volatile amines are
7 basically sort of -- there were only four that really
8 responded to that sort of a question.

9 And one uses reverse osmosis of all these
10 56, only one uses RO, and so they do not need to use
11 volatile amines. Three of them use steam filters, and
12 I couldn't tell whether they think the steam filters
13 are taking out the volatile amines.

14 They don't actually take out volatile
15 amines, the steam filters, but they may be thinking
16 that they take them out. Or at least they think
17 -- they satisfied the certifiers -- taking them out.

18 There's sort of an estimate of the amount
19 of capital required to eliminate the need for volatile
20 amines. The range is anywhere from \$15,000 to \$7
21 million, depending on the size of the food plant that
22 was involved.

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1 But the typical range is more in the
2 \$100-\$350,000 range that it would cost to put in an RO
3 system, or the different equipment to be able to take
4 care of volatile amines. And then as part of that we
5 just added on this little section asking how much
6 -- what is the percentage of organic food that you
7 process.

8 I thought this was pretty interesting.
9 Twenty-seven processors, or almost half of the total
10 sample, process zero to five percent; zero to five
11 percent organic products. Nine processors, six to 10
12 percent, seven processors, 11 to 25 percent, eight
13 processors, 26 to 50 percent, and five processors, 76
14 to 100 percent.

15 So by far, the majority of the processors
16 are a very small amount of the time of actually
17 processing organic food. You know, seven, 16, 36, 43
18 out of 56 are processing less than 25 percent -- 25
19 percent of their entire operation is organic food.

20 CHAIR BRICKEY: So does that mean they're
21 producing food that's not organic?

22 MR. HARPER: Yes, absolutely right. The

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1 rest is all nonorganic food.

2 CHAIR BRICKEY: Okay.

3 MR. HARPER: And so that was the results
4 of the questionnaire. So in addition to that, well, I
5 think that everybody heard last time that, you know,
6 from the discussion we had last time from the
7 presentation, there is -- the industry still feels
8 that -- I mean -- there's got to be some -- we've got
9 to have some tool to take care of chloroform problems
10 in the plants. Otherwise, they are faced with a
11 difficult time.

12 So we -- what I've also included, when
13 turning the page here, I've also included a summary of
14 the FOIA reviews we received. We did not receive a
15 FOIA on diethyl aminoethanol. It was honestly,
16 according to FDA, lost in the mail someplace.

17 I mean, it was supposedly sent, but
18 nobody ever received it, and it's going to be resent
19 out this week, or this week within the next -- yes,
20 this week sometime, I guess. A very extensive -- you
21 know -- extensive FOIAs were received on
22 cyclohexamine, ammonium hydroxide and octadecylamine.

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1 Actually, on cyclohexylamine, about eight
2 inches of material maybe, six to eight inches of
3 material. Most of that was related to cyclomates, its
4 association, its close relationship with the cyclomate
5 question.

6 Morpholine, there were two pages on
7 morpholine. So anyway, we had some questions about
8 whether we received all the documentation on
9 morpholine. So this is our summary. The board has a
10 summary here of the FOIA materials.

11 And I will let you know, most of the
12 information that's in the FOIA materials is associated
13 with evaluating the toxicological evidence or any
14 toxicological evidence that will show up, evidence on
15 studies that were done regarding affect on -- you know
16 -- rat studies or dog studies or other studies to
17 determine whether this compound was safe enough to be
18 used, to come in contact with food.

19 And that was basically what the FOIA
20 materials showed. The ammonium hydroxide is more
21 interesting because it was basically a bureaucratic
22 back and forth, sort of a bureaucratic snafu between

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1 the different agencies trying to figure out what they
2 were really doing with ammonium hydroxide, and on why
3 they were making certain decisions, and that was sort
4 of an interesting trail.

5 So the first material -- well, actually,
6 maybe what I should do here is -- what I'm going to
7 do, I think I'm going to present this as a -- sort of
8 explain what the committee wants to do with all five
9 of them, because it is sort of a package deal where
10 they're all petitioned for use as boiler water
11 additives, and it has an effect on the industry as far
12 as the industry -- as far as sort of what we decide to
13 use or don't decide.

14 Three of these compounds, octadecylamine,
15 cyclohexylamine and morpholine, the committee is
16 recommending overall that we do not allow.

17 MR. CARTER: Which ones?

18 MR. HARPER: Octadecylamine,
19 cyclohexylamine and morpholine, that we do not allow
20 those. The --

21 MS. GOLDBURG: Can I ask a question,
22 Steve?

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1 MR. HARPER: Yes.

2 MS. GOLDBURG: What you mean by, do not
3 allow? Does that mean it can't be used in a plant at
4 all or that they can be just --

5 MR. HARPER: Do not allow in direct
6 contact with food. I mean, the only thing we're
7 dealing with here is with materials that come in
8 direct contact with food, so.

9 MS. GOLDBURG: But that means you can
10 turn off the amines when you're running organic
11 materials.

12 MR. HARPER: Yes. Yes.

13 MS. GOLDBURG: Or your processing line,
14 and then turn it back on.

15 MR. HARPER: Yes.

16 MS. GOLDBURG: Okay.

17 MS. BURTON: Organic foods that come in
18 direct contact.

19 MR. HARPER: Organic foods.

20 MS. GOLDBURG: Right.

21 MS. BURTON: That doesn't mean in
22 bottling.

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1 MR. HARPER: Organic, contact with
2 organic food.

3 MS. BURTON: Right.

4 MS. GOLDBURG: Okay.

5 MR. HARPER: And what that means is we
6 are not -- any plant that's using these materials, you
7 know, from steam-jacketed applications, even if
8 they're running organic material, you know, they can
9 still use these materials as long as it doesn't come
10 in contact with the food. The only issue here is in
11 direct contact with the food.

12 MR. RIDDLE: Yes. In the committee, I
13 understood that, clearly, what you said as far as
14 steam jackets, these materials could still be allowed,
15 but that indirect contact with bottling and such, I
16 thought we were linking that to the ammonium hydroxide
17 or the DEAE, if it's approved.

18 MR. HARPER: I don't think we can link
19 that to -- I think that's --

20 MR. RIDDLE: If these are prohibited
21 we're still saying they could be allowed in those kind
22 of uses?

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1 MR. HARPER: I think that's an
2 interpretational question, whether that's really in
3 contact with food. I think that was --

4 MR. RIDDLE: Yes. I think it is in
5 contact, but it's not an injection or it's not a
6 direct addition to the food.

7 MR. HARPER: Well, I think that's a
8 program and a -- I mean, that's an interpretational
9 question whether used on caps or in packaging, is, you
10 know, in contact with food or not.

11 MR. RIDDLE: And it also, when we come
12 down to a certification issue as far as avoiding
13 contamination, because if they're prohibited then
14 shutting them off, even when you're using -- running
15 cappers or whatever, would be a control point to avoid
16 contamination.

17 MS. BURTON: When we had our discussion
18 in the processing meeting we clearly distinguished
19 between direct and indirect.

20 MR. HARPER: Indirect.

21 MS. BURTON: And direct being steam
22 blanching, or injection into foods or anything where

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1 steam comes in direct contact with the organic raw
2 material. Indirect would be anything used in
3 packaging or processing that does not come in direct
4 contact with the product. And that's where we
5 distinguished --

6 MR. SIEMON: And including capping was
7 indirect.

8 MS. BURTON: And aseptic packaging and
9 all of that sort of type of processing. At least
10 that's what we were in the processing aspect.

11 MR. HARPER: That's what I thought it
12 was.

13 MR. RIDDLE: Yes.

14 MR. HARPER: That's what I thought we had
15 done.

16 MS. CAUGHLIN: Yes.

17 MR. RIDDLE: I didn't understand it.
18 When we were prohibiting these I thought they were
19 prohibited and it would have to be shut off for
20 organic production as a control point.

21 MS. CAUGHLIN: The concern we were
22 investigating was limited to the direct, I thought.

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1 MS. BURTON: Correct.

2 MR. RIDDLE: Yes, and that's why we were
3 approving for a phase-out on certain ones, was for
4 their direct use.

5 MS. CAUGHLIN: Direct.

6 MR. RIDDLE: Right.

7 MS. CAUGHLIN: We didn't talk about the
8 other ones.

9 MR. SIEMON: But it is -- are we going to
10 say when we say allowed, we'll say in direct contact
11 with food, and does that denote that these other ones
12 are allowed in indirect with that? We don't have to
13 say anything about the indirect under those.

14 Right. When it comes down to the bottom
15 line, do these --

16 MR. RIDDLE: These would be prohibited
17 materials and you have to avoid contamination from
18 prohibited materials under the rule.

19 MR. HARPER: But that's not in the
20 annotation. I mean --

21 MR. RIDDLE: There wouldn't an
22 annotation.

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1 MR. HARPER: No, I mean, there's not an
2 annotation on this. That's why I'm saying that's a --
3 when it comes right down to it that's an
4 interpretational sort of a --

5 MS. CAUGHLIN: It's really a GMP.

6 MR. RIDDLE: Yes, it's really under GMP.

7 MR. HARPER: A GMP certifier --

8 MR. RIDDLE: They're all GMPs.

9 MS. BURTON: When we discussed how we
10 were going to vote on these materials in the committee
11 we had a distinguished line between direct and
12 indirect, and the direct again being direct steam, and
13 indirect for packaging. And that's how we voted on
14 our materials. Maybe you should just finish your
15 report.

16 MR. HARPER: Okay.

17 MS. BURTON: And then we can do
18 discussion that we need to do.

19 MR. HARPER: We did not vote on indirect
20 -- in the committee we did not vote on indirect
21 contact with foods.

22 MS. CAUGHLIN: We need to.

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1 MR. HARPER: We did not address that. So
2 three of those we looked -- we voted outright to
3 prohibit. One of them, ammonium hydroxide, the
4 committee, through the information that we received,
5 the information we received and the review --
6 actually, a lot of follow-up information, the FOIA
7 information, we've made a recommendation that this
8 material be added to 205.605 with the annotation, for
9 use as boiler water additive only, to be removed from
10 205.605 on October 21, 2005.

11 So basically, there's an early sunset on
12 that material, is what our recommendation is, because
13 we thought -- and that material can be used -- that
14 application of that is in dairy plants where they need
15 to use it where it comes in direct contact.

16 And it's not the most efficient tool.
17 Well, in the follow-up -- I'm going to finish with
18 these five. So that's what the committee recommended.
19 On diethyl aminoethanol, the committee voted to defer
20 action on diethyl aminoethanol because we have not
21 received the FOIA at this point.

22 And we're also looking at some testing

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1 information that is not yet finished. And then just
2 to continue on a little farther. The two materials
3 that the committee was looking at seriously was
4 diethyl aminoethanol and ammonium hydroxide, because
5 talking to the industry, these are the two materials
6 that are most applicable, that are most needed for
7 boiler water additives if we approve boiler water
8 additives.

9 Octadecylamine, cyclohexylamine and
10 morpholine have their uses, but they can easily do
11 without those. It's diethyl aminoethanol and ammonium
12 hydroxide are the two primary materials that are --

13 MR. SIEMON: And the least harmful, too,
14 aren't they?

15 MR. HARPER: Well, we need to make
16 judgment on diethyl aminoethanol, but -- and that's
17 why we're waiting, we're deferring that. But ammonium
18 hydroxide, the committee felt that there was some
19 compatibility with the -- some compatibility, Jim, if
20 you can find it there.

21 (Laughter)

22 MR. RIDDLE: I think that's a strong

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1 point.

2 MR. HARPER: With organic processing, or
3 more compatibility than the rest of them -- let's put
4 it that way -- are more compatible and that's what
5 we're recommending. So I don't know if people want me
6 to -- if people have had a chance to read ammonium
7 hydroxide.

8 MS. CAUGHLIN: Yes.

9 MR. HARPER: I think that it's important
10 that you read ammonium hydroxide what we found out
11 from the FOIA. If you read any of these, at least
12 read that one to understand sort of the implications
13 of it here.

14 MR. SIEMON: I just need clarification.
15 I was on the processing -- I did the minutes. You say
16 a phase-in was part of our ammonia?

17 MR. HARPER: I didn't say a phase-in. I
18 said to be removed, to be removed from 205.605 on
19 October 21, 2005. It's an early sunset.

20 MR. SIEMON: I just didn't recall that.
21 That's what we decided?

22 MR. HARPER: Well, we said three years,

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1 and that's three years.

2 MR. SIEMON: I just -- okay.

3 MR. HARPER: That's three years from
4 that.

5 MR. LOCKERETZ: Why did you vote that one
6 to terminate in three years?

7 MR. HARPER: There was feeling by some
8 members of the committee that they could support that
9 early -- an early removal from the list versus later
10 in the full five years.

11 MR. LOCKERETZ: What might happen --

12 MR. HARPER: They're hoping that that
13 induces the industry to find alternatives.

14 MS. BURTON: It means that the Board was
15 serious about really trying to find alternatives to
16 the primary processing.

17 MR. HARPER: Giving a message to, you
18 know, we're serious about people trying to find an
19 alternative to this use. Yes.

20 MS. KOENIG: I'm not sure if this is the
21 proper place for the question, but in terms of the
22 task, the number of -- and maybe I'm interpreting it

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1 wrong -- under -- you know -- on the consideration
2 that its use is compatible with the principles of
3 organic handling.

4 According to the tab it says that
5 octadecylamine -- whatever -- it says even though
6 -- it says it appears to be least toxic of the
7 compounds, and I'm not sure if that was true based on
8 whatever you found. I just wanted to know if that was
9 true compared to all the other volatile means, because
10 you're holding out diethyl aminoethanol, which --

11 MR. SIEMON: Right.

12 MR. HARPER: Well, let me -- there's --
13 the typical needs of the industry has a -- ratio. The
14 way that the chemical compound is distributed between
15 the condensate phase and the vapor phase as it goes
16 through the system, the diethyl aminoethanol has the
17 widest applicability as far as being able to cover,
18 like say, long distance in steam pipes where you've
19 got to have coverage all the way out to the end of the
20 pipe.

21 And it is the best compound that --
22 ammonium hydroxide can work, but it does not --

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1 because of it's distribution --

2 MS. KOENIG: But I'm was talking about
3 the volatile amines, not ammonium hydroxide, just of
4 the one, two, three, four of the volatile amines.

5 MR. SIEMON: Right.

6 MR. HARPER: Right. I understand that.

7 MS. KOENIG: Just the comparisons of
8 those two, according to the technical review, they
9 found that the octadecylamine was the least toxic of
10 the compounds. And I was just -- I mean, and I know
11 it might vary in terms of steam, the result on steam,
12 but why would we even consider something that -- I
13 mean, if we're going to consider any of them, wouldn't
14 we consider the most safe as our priority?

15 MR. HARPER: Well, I understand your
16 question and I think there's a question about the
17 toxicity of all of these.

18 MS. KOENIG: True.

19 MR. HARPER: And but we haven't seen --
20 and there's a question of toxicity on all of them and
21 I think it's a matter of judgment whether -- I mean,
22 looking through the reviews, the FOIA information, the

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1 FOIA information concludes that none of these
2 -- there's a -- technically, none of these have a
3 problem. So I think.

4 MS. KOENIG: The FOIA information.

5 MR. HARPER: The FOIA information. So
6 it's a matter -- I think it's an interpretational
7 issue.

8 MS. KOENIG: But the FOIA is based on
9 conventional food.

10 MR. SIEMON: Thinking.

11 CHAIR BRICKEY: But the toxicity review
12 would be the same.

13 MR. HARPER: The toxicity review is the
14 same, based on toxicity reviews in the FOIA
15 information. So they're equivalent, except for
16 ammonium hydroxide, where there's -- you know --
17 there's a total, you know, a gap between the two.

18 MS. BURTON: But the other reason why we
19 were singling out DEAE was that if you look at a
20 curve-out of all the boiler compounds and the
21 effectiveness and an overall applicability to all the
22 processing plants and the variabilities from different

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1 pH of water to different applications, the DEAE is
2 kind of the middle of the ground, middle of the road,
3 where it would serve best all different types of
4 facilities.

5 That was one reason. The other reason
6 was that if you look at DEAE, they actually list that
7 as being allowed at 15 parts per million.

8 MR. HARPER: Right.

9 MS. BURTON: Versus 10 on the others.
10 And therefore --

11 MR. CARTER: And three on one of them.

12 MS. BURTON: Three, right.

13 MR. CARTER: Two out of the three.

14 MS. BURTON: Right. So we also felt that
15 that -- for some reason they rated that as being a
16 higher usage. So we kind of looked at that and
17 thought that, overall, it might be even less toxic.

18 MR. HARPER: Although we haven't seen the
19 FOIA information.

20 MS. BURTON: We haven't seen the FOIA,
21 so.

22 MR. HARPER: Dave, would you --

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1 MR. CARTER: First of all, didn't you say
2 only one of the folks surveyed used reverse osmosis.
3 What's the primary limiting -- I mean, is that a cost
4 factor?

5 MS. BURTON: Yes.

6 MR. CARTER: Okay. And then of the ones
7 that surveyed, did they respond as to which of these
8 water additives that they use?

9 MR. HARPER: No, they did not. We did
10 not ask that question. A lot of them use a
11 combination.

12 MS. BURTON: That's what most of them --

13 MR. HARPER: In fact, most of them use a
14 combination, but you can use -- I mean, in talking to
15 our boiler water -- a number -- Kim talked to people,
16 I talked to people, or two different engineering
17 firms, as well as Steve Carol , the gentleman that was
18 here before, as well as another distributor of
19 chemicals, that DEAE -- I mean, you can use it by
20 itself and it works very well.

21 People like to throw in these other sort
22 of specialized applications. I think one other point

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1 I'd like to make here is that on the issue of reverse
2 osmosis, I mean, I want to make sure that people
3 understand that this is not -- because I know some of
4 you are concerned about scale.

5 This is not a scale issue here. A lot of
6 the larger plants are putting reverse osmosis systems
7 in because they can afford to do that, and they have
8 the most to gain from, say, chemical savings. A lot
9 of these places where some of these -- you know --
10 where these volatile amines are being used, many of
11 the smaller places can't afford some of these -- you
12 know -- can't afford the capital to put in the reverse
13 osmosis system.

14 And this is mostly who -- it's mostly the
15 smaller plants that the organic people are using at
16 this point for the most part.

17 MR. CARTER: Well, the third question I
18 had was on the ones that when they're not using these
19 when they process organic -- when they shut down, is
20 there a clean-up? I mean, what do you have to do?
21 I'm not --

22 MR. HARPER: Well, a number of the

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1 certifiers, I know they say, can you turn off in 24
2 hours.

3 MS. BURTON: And it typically is a
4 beginning --

5 MR. CARTER: Twenty-four hours prior?

6 MR. HARPER: Twenty-four hours prior.

7 MR. SIEMON: Oh, I never heard that one.

8 MR. HARPER: That's what -- if I
9 remember, WDA does that. I'm not sure if Oregon -- I
10 think Oregon Trail -- I've heard some plants doing
11 that for Oregon Trail, like 24 hours ahead of time
12 turn it off.

13 MS. BURTON: But I mean, just from my
14 experience, typically those that turn them off are
15 ones that only run like seasonal, one time a year.
16 Like we shut ours off just to run cherries, and that's
17 maybe two days out of the whole year. So we can
18 afford to turn our boiler off for that limited amount
19 of time.

20 MR. HARPER: Yes, Jim.

21 MR. RIDDLE: I think it's important to
22 point out that DEAE was also deferred at the request

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1 of the petitioner. That's not reflected in here.

2 MS. BURTON: Right. We felt that of all
3 the boiler compounds -- and I was one of the
4 petitioners, so I should say that -- that we could,
5 that would be our best overall choice if we had to
6 choose.

7 MR. RIDDLE: But it was deferred at your
8 request.

9 MS. BURTON: Correct.

10 MR. RIDDLE: And it is prohibited until
11 it's been reviewed. So it remains prohibited. So
12 anybody that's using it needs to keep that in mind.

13 MR. HARPER: Right.

14 MR. RIDDLE: It's not going to catch up
15 with the Rule with the kind of cycle that we're on.

16 MR. HARPER: So I want to let everyone
17 know that on these particular -- on these votes that
18 I've just gone over, the vote on the committee was
19 three in favor, zero no. Nobody was not in favor of
20 the recommendation.

21 And three of us have conflict of interest
22 because all of us, George, myself and Kim, were all

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1 associated, not directly but indirectly, with the
2 petition -- and so we all excused ourselves from the
3 vote.

4 So that was -- it's three to zero on
5 every one of these to make the recommendations that I
6 just went through, and with the three of us it's
7 clearly a conflict of interest.

8 MR. SIEMON: Just to follow up on
9 Rosie's, is there a chance that since we're deferring
10 one that we should defer this other one so that we can
11 -- if we're going to treat one that's the lesser of
12 the evils, which is to see what we're considering,
13 should we also defer this one that's the least toxic?

14 MS. KOENIG: And I have a question. I
15 have one more point on that because I just got this
16 summary, this FOIA that you --

17 MR. HARPER: Right.

18 MS. KOENIG: Just now, and I don't know
19 if you're prepared to answer it. But I know you're
20 saying they're currently allowed in the steam, three
21 parts per million, based on the -- and it's based on
22 an assumption that only a, you know, .25 to .5 ppm

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1 will remain in the food, which to me --

2 MR. HARPER: Well, that's at the most.

3 MS. KOENIG: Yes, but to me as an
4 argument, I don't know why .3 ppm. Maybe it's an
5 effective chemical at that. Just because it's a low
6 parts per million doesn't mean that it's necessarily
7 more -- less unsafe. It may be in fact more safe.

8 MR. HARPER: That's actually --

9 MS. KOENIG: And I'd like to hear your
10 interpretation of that.

11 MR. HARPER: Well, my interpretation in
12 reading the FOIA material and there may be other
13 people -- Brian, did you read the FOIA material? I'm
14 not going to get that response?

15 AUDIENCE MEMBER BRIAN: Well, obviously,
16 I looked at it. I did not have a chance to study it
17 carefully and I was asked if I think it would be a
18 good idea to send it to the reviewers for their
19 advice.

20 So all I'm going to say about the FOIA
21 material, is I have not had a chance to study it
22 carefully and it has not been to the reviewers who

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1 compiled the original reviews, and there was nothing
2 that I saw in the material that would have changed
3 their recommendations. But they can -- and only they
4 -- can speak to that.

5 MS. KOENIG: Can I ask Brian --

6 MR. HARPER: I'll just answer my own
7 question. My question, reading through there the
8 levels are determined I think on basically what is --
9 one, what is required to be effective in a steam
10 system, and two, the toxicological studies --

11 CHAIR BRICKEY: As to what's going to be
12 allowed as a residue.

13 MR. HARPER: -- what's going to be
14 allowed as a residue. So there's a combination of
15 those two things. And I think octadecylamine, the
16 reason it's .3 ppm, I think it's probably a
17 combination of those. I mean, that one definitely had
18 some association to the information they were choosing
19 that level because of the information that was based
20 on the tox studies, as well as its usage, those two
21 components.

22 MS. KOENIG: Can I ask Brian a question,

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1 because I guess I'm just not clear on the TAP-in. Is
2 that statement incorrect in the TAP in terms of, have
3 they reviewed all those chemicals, number six, where
4 it says, octadecylamine appears to be the least toxic
5 of compounds?

6 AUDIENCE MEMBER: Well, it has the
7 highest LD-50, which means it's the least acutely
8 toxic of the compounds study. However, the LD-50s
9 vary widely, and certain of the other toxicological
10 indicators show that those earlier studies might have
11 been flawed.

12 We're talking about studies in some
13 cases, LD-50 is based on studies done 40, 50 years ago
14 when the techniques were somewhat different, and in
15 more refined techniques there appears to be evidence
16 that it might be more toxic than originally
17 considered. I don't know and I don't know if anything
18 in the FOIA's would clarify that.

19 MR. HARPER: Most of that information in
20 the FOIA's was -- well, the latest information in the
21 FOIA's was, as far as in the studies, was in the 60s.
22 Most of these were in the 50s.

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1 MR. LOCKERETZ: Right.

2 MR. HARPER: I mean, there's nothing
3 recent in the FOIA information at all.

4 MS. KOENIG: It just appears to me that
5 -- and maybe it's a wrong appearance. Maybe I need to
6 get that straight. But it appears to me as if you're
7 holding out the diethylene aminoethanol as sort of
8 like this is going -- you know -- that you're going to
9 get the FOIA on it, but it almost sounds like that's
10 the hopes that even when you get that information that
11 you're going to present that this is the best of the
12 lot.

13 MS. BURTON: It is.

14 MR. HARPER: It is.

15 MS. KOENIG: And what I'm saying is --

16 MS. BURTON: It is the assumption.

17 MR. HARPER: It is as far as covering the
18 true plants' needs. I don't know what the result's
19 going to be in looking at the FOIA. I really don't.

20 MS. KOENIG: So you're basing your --

21 MR. HARPER: I'm looking at the --

22 MS. KOENIG: You're basing that on what

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1 the industry needs, not in terms of the safety of the
2 product, and that's what I need to get a handle on.

3 MS. BURTON: We're basing it, again, on
4 the overall curve and its effectiveness overall in all
5 different types of applications, and this tolerance
6 level that was initially set. And again, we don't
7 have testing back and we don't have the FOIA.

8 And of our recommendations from our
9 boiler chemical industry experts, that if we were to
10 look at all of them, this seems to be the best fit.
11 Now, of course, it's up to this Board to vote on it,
12 but that -- we can't make a determination because we
13 don't have information.

14 MR. HARPER: Well, I was also going to
15 say that, and part of my estimation is that, you know,
16 we can't tell on morpholine, but there's been some --
17 definitely some questions about morpholine. And of
18 the other three materials, DEAE, octadecylamine-C, and
19 let's see, which one of these is a philamine?

20 AUDIENCE MEMBER: Octadecylamine is the
21 philamine.

22 MR. HARPER: Yes. Right. Octadecylamine

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1 is a philamine and it's got a very specific way that
2 it works to coat the pipes. It's not very -- it's not
3 universally applicable in --

4 AUDIENCE MEMBER: It's also the most
5 persistent.

6 MR. HARPER: Yes. It actually has the
7 most possibility of getting into the food, because it
8 does not vaporize, because it --

9 MS. KOENIG: Okay. That's why the low
10 ppm is there.

11 MR. HARPER: Right.

12 MS. KOENIG: Okay.

13 CHAIR BRICKEY: So my question is this --

14 MR. HARPER: So what I was going to say
15 is these are sort of -- the other ones, the other
16 three as far as we know at this point, although not
17 morpholine, the other two are pretty much equivalent,
18 but of those -- of the equivalency of those two, DEAE
19 is much more effective in universal compliance.

20 CHAIR BRICKEY: Well, the question is
21 this, you had the information on this second chemical
22 and you knew that there were no big safety questions,

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1 would you recommend it instead of ammonium hydroxide,
2 or did you intend to recommend both of them?

3 MR. HARPER: We did not even discuss it,
4 and we may do so, about --

5 MS. BURTON: Well, with the exception
6 that ammonium hydroxide is the only one allowed in
7 dairy products and facilities.

8 MR. HARPER: The only one, yes. The only
9 one that was dairy.

10 MS. BURTON: The other ones are not.
11 Yes.

12 MR. HARPER: Yes. So we have to --
13 ammonium hydroxide is needed for dairy, I believe.

14 CHAIR BRICKEY: Okay. All right. So
15 it's not an either/or --

16 MR. HARPER: No.

17 CHAIR BRICKEY: -- I guess is what I'm
18 saying.

19 MR. HARPER: No.

20 CHAIR BRICKEY: Okay. All right. How
21 much longer do you --

22 MS. BURTON: So I think, unless there's

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1 further discussion, I mean, the committee's made their
2 recommendations.

3 MR. RIDDLE: Yes. And in my less than
4 enthusiastic vote in favor of ammonium hydroxide --
5 and I certainly heard some other sentiments along
6 those lines, was conditional on the ability to phase
7 out use. And so -- Mark's shaking his head, I see.

8 CHAIR BRICKEY: Mark?

9 MR. RIDDLE: Yes, is shaking his head and
10 agreeing with -- all right. So the question is, is
11 that a realistic annotation, I think, before we move
12 ahead on this one.

13 CHAIR BRICKEY: Well, it's not phase out.
14 It's a sunset.

15 MR. RIDDLE: Sunset, whatever, a date
16 certain.

17 CHAIR BRICKEY: Yes.

18 MR. MATHEWS: I would have to take that
19 to the attorneys and find out if they agree with that.

20 MR. SIDEMAN: And I think this question's
21 going to come up later.

22 MR. MATHEWS: Right.

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1 MR. SIDEMAN: However, passage -- based
2 on that, can that be reversed if that -- if the sunset
3 is said to be not workable --

4 CHAIR BRICKEY: Let me answer that one.
5 You asked if the Board -- if it's like any other
6 material that we approve with an annotation. The
7 annotation is that it's sunseting is x date. As
8 always, you know, the department could blatantly
9 ignore what we recommend, but I don't think they're
10 going to do that.

11 I think they're going to look at the
12 question of whether they can do sunseting and get
13 back to us and tell us.

14 MR. SIDEMAN: And if they can't, then
15 it's not listed.

16 CHAIR BRICKEY: We would not be
17 recommending listing.

18 MR. SIDEMAN: Okay. That's --

19 CHAIR BRICKEY: Because where's the
20 annotation.

21 MR. MATHEWS: Okay. I thought we would
22 do that, to send to us, your recommendation was to

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1 allow this material with this annotation, and if it's
2 determined that a sunset annotation is not permitted
3 under the Act, then you tell us what you want us to
4 do.

5 MR. SIEMON: Then we would revisit it.

6 MR. MATHEWS: Okay. Well, that's what
7 you'll keep telling us.

8 MR. SIDEMAN: Or we can tell you today we
9 would recommend this material only if it be annotated.

10 CHAIR BRICKEY: That's right.

11 MR. SIDEMAN: And then if you don't get
12 the annotation you know today --

13 MS. BURTON: I don't think it could be
14 stronger, myself.

15 MR. LOCKERETZ: Back to my question on
16 the need for a sunset. When you're talking about
17 having alternatives available are you talking about
18 some brand new alternatives becoming available or are
19 you talking about time for a plant to make a
20 conversion to another system?

21 MS. BURTON: Possibly going into RO
22 system where we don't --

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1 MR. HARPER: Reverse osmosis.

2 MR. LOCKERETZ: So it's for the
3 individual plant to adopt, not in the hopes that
4 something better comes along.

5 MR. HARPER: That's correct.

6 MR. SIEMON: Right.

7 MR. HARPER: Well, having the reverse
8 osmosis is -- I mean, up front changes in the plant's
9 capital, up-front RO systems and all the other
10 equipment that goes along with it is the up-front fix.
11 You can also put in, like, stainless steel systems
12 throughout the plant, which then we get into millions
13 and millions of dollars.

14 MS. BURTON: I'm sure 7 million --

15 MR. HARPER: I mean, we're talking, for
16 complete protection you're talking about way down to
17 \$100-\$350,000; you're talking about in the millions of
18 dollars.

19 MR. SIEMON: So what it is -- in three
20 years, then, what's going to change? The dynamics are
21 still the same, but there's --

22 MS. BURTON: It gives time.

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1 CHAIR BRICKEY: Let me address that, too.
2 The Board would be revisiting this, if it's doing its
3 job, in five years anyway.

4 MR. SIEMON: Yes. So what's to be gained
5 by this phase-in?

6 MR. HARPER: That was a request of the
7 processing committee.

8 MR. RIDDLE: And also, the five-year
9 review is not a time certain that anything is being
10 removed. That just means it's going to be reviewed.
11 This is a very different job.

12 MR. MATHEWS: Our list is dead at five
13 years. Now, Kim and her committee has talked in terms
14 of how are we going to avoid all of the substances
15 coming off the list at one time, and so there's
16 discussions about getting started sooner rather than
17 later, to start putting these on like a 20 percent
18 rotation over the five years so that you're continuing
19 to go along.

20 But it is a sunset provision, which means
21 everything comes off at five years.

22 MR. RIDDLE: Is that in OFRA or is that

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1 somewhere else and applies to --

2 MR. MATHEWS: Yes -- and they'll all have
3 to be re-reviewed in five years or they're going to
4 take them off the list.

5 MR. SIEMON: Last time we voted with
6 annotation I thought it got a little confusing. Did
7 we have a conclusion which first vote on allowing or
8 not allowing and then voting on the annotation? Or
9 are we going to vote on -- like this -- we going to
10 vote to allow it and then vote to add an annotation,
11 or are we going to vote to allow it with an
12 annotation?

13 MS. CAUGHLIN: It needs to be the
14 committee's --

15 MS. BURTON: It depends on the motion
16 that's being made. If the entire committee -- as in
17 this case, you had three, zero, three, three to
18 recommend it with an annotation, then I'd say that
19 would be the one that'd be the motion made, just like
20 we did with Willie's --

21 MR. LOCKERETZ: Another question to
22 Steve. If a plant is running both organic and

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1 nonorganic products, up to what fraction organic is it
2 a feasible strategy to simply say, we won't use these
3 things during the organic run, plus some period before
4 that?

5 I mean, if the plant is running 25
6 percent organic and they turn this stuff off but still
7 run organic --

8 MR. HARPER: As I mentioned last time,
9 there's so many water quality issues. I mean, you
10 have difference in water quality everywhere in the
11 United States. Some places have extreme hardness
12 problems, like Eastern Washington and the Midwest, and
13 some places don't.

14 I mean, the places that are turning them
15 off, a lot of the places, don't have that -- you know
16 -- it's not as severe a quality. The plants that are
17 -- a lot of these plants, many of them that are not
18 willing to turn them off, they're running like one
19 line out of this huge plant, and they're not going to
20 jeopardize the rest of the plant to turn them off.

21 So I can't answer that question. There's
22 so many different variables here in water quality,

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1 size of plant, you know, all different things that I
2 can't --

3 CHAIR BRICKEY: George, what you could do
4 is offer an amendment to remove the annotation and we
5 could take a vote on that.

6 MR. SIEMON: Well, I've got -- I'm not
7 voting, so -- you mean, just kind of make a motion?

8 CHAIR BRICKEY: Well, I'll certainly make
9 that motion if you want to vote on that.

10 MS. BURTON: He can't vote.

11 MR. SIEMON: I was actually asking what's
12 the correct way to go at it for all issues, because to
13 me it confuses it when you throw -- because we have to
14 realize the annotations may not go through.

15 MS. BURTON: Right.

16 MR. SIEMON: So we need to deal with
17 allowing these materials without annotations as a
18 group. We can try for annotations.

19 MR. CARTER: Procedurally, what we ought
20 to do is committee makes its report -- with an
21 annotation, if somebody wants to offer an amendment to
22 take that annotation off, they can offer that as a

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1 stand-alone amendment.

2 MR. LOCKERETZ: Well, but see, this is
3 another issue -- choice is, is it yes or no, without
4 the annotation.

5 MS. BURTON: Right. How we voted in the
6 past is synthetic or nonsynthetic, allowed with the
7 annotation.

8 MR. LOCKERETZ: But this presents the
9 special problem of suppose the annotation is not
10 allowed, and we can have a contingency voting.

11 MR. RIDDLE: We vote it.

12 MR. LOCKERETZ: We can have that
13 contingency vote right now.

14 CHAIR BRICKEY: We don't need a
15 contingency vote because the Board will be voting to
16 approve material only with the annotation.

17 MR. LOCKERETZ: But this is an annotation
18 whose legality we don't know.

19 CHAIR BRICKEY: Well, it wouldn't be --

20 MS. BURTON: It would go back, like Rick
21 said, and it wouldn't be recommended by the Board and
22 therefore they wouldn't put it on the list.

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1 MR. MATHEWS: Right. So whatever your
2 recommendation is to us is what we will take forward.

3 So if you recommend to approve this with the
4 annotation and then you tell us that if we cannot
5 legally put a sunset into it before the normal five-
6 year period, then you can have a recommendation to us
7 that says if that's the case, then we either want it
8 without the annotation, or we don't want it at all.

9 MR. LOCKERETZ: That's exactly what I
10 said.

11 MR. MATHEWS: That's what you have to
12 vote.

13 MR. LOCKERETZ: One more question for
14 Steve.

15 MR. HARPER: Yes.

16 MR. LOCKERETZ: Are there any plants that
17 can't just run ammonium hydroxide, if all the others
18 were banned?

19 MR. HARPER: Well, the information that I
20 received was that --

21 MS. BURTON: It's not a voluntary --

22 MR. HARPER: -- most large plants, it's

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1 not effective in large plants. It will not be
2 effective at the end of the steam line. And so it
3 doesn't really work in large plant systems.

4 MR. LOCKERETZ: Okay.

5 MR. HARPER: All right. Just one other
6 piece -- a couple other pieces of information that
7 other people on the Board did not receive that I want
8 to pass on, because it was in -- I don't know if
9 everybody got the -- did everybody get that or just --

10 MS. BURTON: Just the processors.

11 MR. HARPER: The processing. Okay. But
12 in the re-review of this there are some questions in
13 the -- in the re-review of this material by last time
14 we received more information that -- and I think this
15 is accurate.

16 There was discussion in the original TAP
17 review about the toxicological implications of
18 ammonia, and a lot of the review seemed to focus on
19 that. It seemed to me that that has to do with
20 gaseous ammonia.

21 Ammonium hydroxide is aqueous ammonia and
22 do not have the same worker safety, as well as

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1 potential contamination issues or toxicological
2 implications that you do with gaseous ammonia. Any
3 contamination issues that have been present in food
4 products have been from refrigerant and not from the
5 boiler water additive itself. I just wanted to pass
6 that on.

7 MS. BURTON: Was that as a comment or --

8 MR. HARPER: That was in the re-review of
9 -- okay, can you describe that, please?

10 MS. BURTON: No, we just wanted to move
11 forward.

12 MR. HARPER: I'm sorry. The other
13 information I just want to pass on, since I can't vote
14 on it, is that food products have a huge, huge amount
15 of ammonia in them and most people don't realize it.

16 MR. LOCKERETZ: Has ammonium?

17 MR. HARPER: Ammonia. Cheese has --
18 cheddar has 1,000 parts per -- 1,000 ppm of ammonia in
19 cheddar cheese. American cheese also has that. Bread
20 has 30 parts per million ammonia. Breast milk has
21 about two to 10 parts per million ammonia.

22 Regular milk has 10 to 27 parts per

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1 million of ammonia. Most food products through normal
2 metabolic processes has ammonia already in it. And so
3 the contamination here of food with ammonia is an
4 incredible incidental contamination of food as far as
5 ammonia, because so many foods -- so much of the food
6 already has -- you know -- kind of large quantities of
7 ammonia.

8 MR. LOCKERETZ: Looks like it's allowed
9 to be added, the carbonated --

10 MR. HARPER: Plus all the carbon and
11 ammonia.

12 MR. RIDDLE: Brian, did you want to
13 respond to this?

14 AUDIENCE MEMBER: I'm sorry.

15 MR. RIDDLE: No. Did you have point?

16 AUDIENCE MEMBER: Just one small point.

17 When Steve was talking about the gaseous ammonia --

18 MR. RIDDLE: Yes.

19 AUDIENCE MEMBER: -- the sticking
20 concerns, the boiling point is 97 degrees Fahrenheit
21 and in boiler systems I believe you're exceeding 97
22 degrees Fahrenheit in most instances.

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1 MR. HARPER: That's correct.

2 AUDIENCE MEMBER: So you are actually
3 -- gaseous ammonia.

4 MS. BURTON: Okay.

5 MR. HARPER: Over 50 percent of that
6 ammonia that's the 10 ppm is recycled back through the
7 condensate into the -- in the applications back into
8 the boiler water system. And so you have very small
9 quantities of ammonia that are potentially volatile,
10 but not at the levels that you're talking about as
11 potentially toxicological significance.

12 MR. RIDDLE: So are we ready to accept a
13 motion to --

14 MS. BURTON: I think we are ready.

15 MR. RIDDLE: I would move -- and we'll
16 just do this one at a time, correct? The language on
17 the ammonium hydroxide, get a recommendation from the
18 committee which lends it to removal from the list on
19 October 21st, 2005, that that be approved.

20 MR. KING: I second.

21 MS. BURTON: Okay. Discussion.

22 MR. LOCKERETZ: Haven't we had the

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1 discussion already?

2 MR. SIEMON: I don't agree with the fact
3 that if we can't get the annotation it shouldn't be
4 allowed. So I think we're really -- I don't like the
5 message we're sending by this vote, personally, so.

6 MR. LOCKERETZ: We haven't said that.

7 MR. RIDDLE: We haven't said that.

8 MR. LOCKERETZ: We haven't said -- we
9 don't know where we stand on that.

10 MS. KING: We haven't voted on it yet.

11 MR. SIEMON: Well, I just -- you know --
12 expressing my opinion, just so you know.

13 MR. SIDEMAN: You're saying you don't
14 like the annotation. You'd rather just approve it?

15 MR. SIEMON: Yes. Five years is not that
16 different than three, and I haven't seen anything that
17 convinces me there's any change in three years here,
18 because it's talking about an infrastructure shortage
19 in the United States that we have -- I don't see any
20 shift here to make this -- you know -- I think we
21 should save this sunset clause for things that we
22 know, you know, that we have some hope at the end of

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1 the day, so to speak. So I just don't see why we -- I
2 think we're over-managing with this annotation.

3 MR. HARPER: I agree with George also,
4 but I can't vote, so.

5 MR. SIEMON: No. We're over-managing.

6 MR. MATHEWS: The committee can always
7 schedule it at an earlier time. I mean, once you
8 start to do your rotation, I mean, you can always try
9 to schedule that at an earlier date.

10 MS. BURTON: Yes. He's recommending that
11 we go past three years, so he's doing the opposite.

12 MR. SIEMON: What?

13 MS. BURTON: Rick's comment was that we
14 could always schedule something for review --

15 MR. MATHEWS: Sooner.

16 MS. BURTON: -- sooner than the plan.

17 MR. MATHEWS: Right. The Board would
18 certainly encourage that -- annotation.

19 MR. SIDEMAN: We'll do that, just what
20 Rick said.

21 MS. BURTON: Okay. We have ammonium
22 hydroxide. There's been a motion made. Discussion.

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1 MR. SIDEMAN: I would like somebody to
2 address George's point. What is the belief that
3 something's going to change in three years? No one's
4 going to put in stainless steel; we all realize that.

5 CHAIR BRICKEY: Why do we realize that?

6 MS. BURTON: Too much money.

7 MR. SIDEMAN: It's millions of dollars.

8 CHAIR BRICKEY: Okay.

9 MR. SIDEMAN: So other than stainless
10 steel, what are the options?

11 MR. SIEMON: That's what this zero
12 through five percent, 27 producers tell you, how small
13 of a part that we are and how much are they going to
14 invest for that part of their production. I mean,
15 it's just not going to happen.

16 MS. BURTON: Willie.

17 MR. LOCKERETZ: I move to remove the
18 annotation and make a straight yes or no vote.

19 MS. BURTON: Okay.

20 MR. LOCKERETZ: Instead of being an
21 amendment that we vote first.

22 MS. BURTON: It that a friendly

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1 amendment?

2 MR. RIDDLE: Not really, no, it wouldn't
3 be a friendly amendment.

4 MR. LOCKERETZ: It's a substantial
5 amendment.

6 MR. RIDDLE: So it makes the vote now,
7 essentially.

8 CHAIR BRICKEY: All right.

9 MS. BURTON: Okay.

10 MR. RIDDLE: Doesn't matter to me.

11 MS. BURTON: So the motion has been made
12 to remove the annotation. Okay. First we need to
13 vote on whether it's a synthetic or a natural.

14 MR. LOCKERETZ: That should be easy.

15 MS. BURTON: Okay. Rick, are you ready?
16 We're voting on ammonium hydroxide, synthetic or a
17 natural.

18 MR. MATHEWS: Okay. Owusu.

19 MR. BANDELE: Synthetic.

20 MR. MATHEWS: Carolyn.

21 CHAIR BRICKEY: Synthetic.

22 MR. MATHEWS: Kim.

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1 MS. BURTON: Synthetic -- oh, I -- oh,
2 excuse me. Hold on. I have to recuse myself from
3 this vote.

4 MR. RIDDLE: It's all right, but it's
5 already been clear here.

6 MS. BURTON: So I will not be voting on
7 these materials.

8 MR. MATHEWS: So I'll put you as an
9 abstain. Dave.

10 MR. CARTER: Synthetic.

11 MR. HARPER: No, put down recuse.

12 MR. MATHEWS: Okay. All right. COI.
13 Dave?

14 MR. CARTER: Synthetic.

15 MR. MATHEWS: Goldie.

16 MS. CAUGHLIN: Synthetic.

17 MR. MATHEWS: Becky.

18 MS. GOLDBURG: Synthetic.

19 MR. MATHEWS: Steven.

20 MR. HARPER: Recuse myself.

21 MR. MATHEWS: COI. Mark.

22 MR. KING: Synthetic.

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1 MR. MATHEWS: Rosie.

2 MS. KOENIG: Synthetic.

3 MR. MATHEWS: Willie.

4 MR. LOCKERETZ: Synthetic.

5 MR. MATHEWS: Jim.

6 MR. RIDDLE: Synthetic.

7 MR. MATHEWS: Eric.

8 MR. SIDEMAN: Synthetic.

9 MR. MATHEWS: George.

10 MR. SIEMON: COI, whatever that means.

11 MR. LOCKERETZ: Well, the OGC will tell
12 you that's --

13 (Laughter)

14 MR. MATHEWS: Okay. All right. We have
15 three that are staying out, that's conflict of
16 interest, and that leaves the 11 that are voting. I
17 got 11 voting as synthetic.

18 MS. BURTON: Okay. Now, we have a motion
19 on the floor to approve this material with no
20 annotation.

21 MR. LOCKERETZ: No. No, to remove -- we
22 have an amendment to remove the annotation.

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1 MR. MATHEWS: -- to remove the annotation
2 from the original draft.

3 MR. HARPER: So it'd be for use as boiler
4 water additive only.

5 MS. BURTON: Correct.

6 MR. LOCKERETZ: Correct.

7 MS. CAUGHLIN: Well, with the sunset
8 clause.

9 MR. LOCKERETZ: No.

10 MS. BURTON: That we should remove the
11 sunset clause.

12 MR. RIDDLE: The vote is to remove the
13 sunset clause, and then we wouldn't have to vote
14 again --

15 MS. BURTON: Right.

16 MR. RIDDLE: -- either with or without
17 the annotation.

18 MR. HARPER: So I guess that we just have
19 to vote on whether you want to remove the sunset
20 clause.

21 MS. BURTON: Right.

22 MR. HARPER: Is that a majority vote?

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1 MR. LOCKERETZ: That's a majority vote.

2 MS. BURTON: Okay. Yes.

3 MR. MATHEWS: Well, wait a minute. I
4 heard something else just a second ago. Is the
5 annotation only the sunset clause, or is there some
6 other annotation?

7 MR. LOCKERETZ: No.

8 MR. HARPER: For use as boiler water
9 additive only, to be removed from 205.605.

10 MR. LOCKERETZ: Well, for clarity, I'm
11 moving that we remove the sunset provision only.

12 MS. BURTON: Thank you.

13 MR. RIDDLE: Yes.

14 MR. KING: Yes.

15 MR. LOCKERETZ: No, that's the only thing
16 we're -- I shouldn't have said the annotation, because
17 the annotation --

18 MS. BURTON: Right, you confused me, too.

19 MR. MATHEWS: Okay. So what we're voting
20 on is that the annotation will simply read: "For use
21 as boiler water additive only."

22 MS. BURTON: Correct.

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1 MR. MATHEWS: That's what we're voting on
2 right now.

3 MR. RIDDLE: That's right, and we're
4 not --

5 MR. MATHEWS: Just the motion.

6 MR. RIDDLE: And we're not voting to
7 approve that. We've voting whether or not the
8 annotation will read, "For use as boiler water
9 additive only."

10 MR. HARPER: Well, no, to remove --

11 MS. BURTON: We're not voting on
12 anything.

13 MR. LOCKERETZ: Same action. We're
14 voting for an alternative annotation --

15 MR. MATHEWS: But this is the annotation
16 that we're voting on.

17 MR. LOCKERETZ: Correct.

18 MS. BURTON: Correct. You're voting.

19 AUDIENCE MEMBER: -- now are you voting
20 to allow the annotation?

21 MR. MATHEWS: No. Here's the way I
22 understand it. The original motion was, "For use as

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1 boiler water additive only, removal from the list
2 October 21, 2005." We have an unfriendly amendment to
3 change the annotation to read, "For use as boiler
4 water additive only."

5 MS. BURTON: Period.

6 MR. MATHEWS: We're voting for --

7 MS. BURTON: Rick. Rick. Rick. Rick.
8 Can I please --

9 MR. RIDDLE: Why don't you phrase it,
10 should we remove the --

11 MS. BURTON: All you have to do is
12 rescind your motion and make a new motion. That's all
13 you have to do.

14 MR. MATHEWS: Okay.

15 MS. BURTON: Just rescind the motion and
16 make a new motion.

17 MR. MATHEWS: Okay. Then what we're
18 voting on now is the removal of -- removal from the
19 list October 21, 2005.

20 MR. RIDDLE: Absolutely.

21 MS. BURTON: Okay.

22 CHAIR BRICKEY: Should we remove that.

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1 MS. BURTON: Should we remove that.

2 MR. MATHEWS: Should we remove that. All
3 right. Owusu.

4 MR. BANDELE: Should we remove it? No.

5 MR. MATHEWS: Carolyn.

6 CHAIR BRICKEY: Yes.

7 MR. MATHEWS: Kim. Well, you're out.

8 MS. BURTON: Okay.

9 MR. MATHEWS: Dave.

10 MR. CARTER: No.

11 MR. MATHEWS: Goldie.

12 MS. CAUGHLIN: No.

13 MR. MATHEWS: Becky.

14 MS. GOLDBURG: Yes.

15 MR. MATHEWS: Steve, you're out. Mark.

16 MR. KING: No, we should not remove the
17 sunset.

18 MR. MATHEWS: Rosie.

19 MS. KOENIG: I'm abstaining. I don't
20 understand what it is.

21 MR. MATHEWS: Willie.

22 MR. LOCKERETZ: Yes.

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1 MR. MATHEWS: Jim.

2 MR. RIDDLE: No.

3 MR. MATHEWS: Eric.

4 MR. SIDEMAN: Yes.

5 MR. MATHEWS: George is out.

6 MR. SIEMON: I'm not voting.

7 MR. MATHEWS: Bill.

8 MR. WELSH: Yes.

9 MR. MATHEWS: All right. Give me a
10 second. Well, this is interesting. We have three
11 conflict of interests, one abstention, five no and
12 five yes.

13 CHAIR BRICKEY: Oh, Lord.

14 MR. RIDDLE: Say that again.

15 MR. MATHEWS: Three staying out because
16 of conflicts of interest, one abstain, five nos to the
17 change and five yes to the change.

18 MR. CARTER: Are we going to have to call
19 Michael?

20 CHAIR BRICKEY: No.

21 (Laughter)

22 MR. RIDDLE: The amendment remains as

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1 written.

2 MR. MATHEWS: The motion remains as
3 written.

4 AUDIENCE MEMBER: Remember back about two
5 years ago when we were going over the needed votes for
6 material approvals. There was the need for a majority
7 vote for synthetic or natural, but for the actual
8 approval of material to go on the list, it had to be
9 two-thirds of the members.

10 MR. MATHEWS: We're voting on an
11 unfriendly amendment to the annotation.

12 AUDIENCE MEMBER: Okay. Okay.

13 MR. MATHEWS: All right.

14 MS. BURTON: Now, we are back to the
15 original --

16 MR. MATHEWS: The original motion.

17 MS. BURTON: -- with the annotations,
18 which reads.

19 MR. MATHEWS: All right. The original
20 annotation is: "For use as boiler water additive
21 only, removal from the list October 21, 2005." Are we
22 ready for the vote?

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1 MS. BURTON: We're ready for the vote.
2 MR. MATHEWS: Owusu.
3 MR. BANDELE: Approve.
4 MR. MATHEWS: Carolyn.
5 CHAIR BRICKEY: Approve.
6 MR. MATHEWS: Kim -- COI. Dave.
7 MR. CARTER: Approve.
8 MR. MATHEWS: Goldie.
9 MS. CAUGHLIN: Yes, approve.
10 MR. MATHEWS: Becky.
11 MS. GOLDBURG: Approve.
12 MR. MATHEWS: Steve, that's COI. Mark.
13 MR. KING: Approve.
14 MR. MATHEWS: Rosie.
15 MS. KOENIG: Prohibit.
16 MR. MATHEWS: Willie.
17 MR. LOCKERETZ: Approve.
18 MR. MATHEWS: Jim.
19 MR. RIDDLE: Yes, approve.
20 MR. MATHEWS: Eric.
21 MR. SIDEMAN: Approve.
22 MR. MATHEWS: And Bill.

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1 MR. WELSH: Approve.

2 MR. MATHEWS: And it passes by the
3 required majority, 10 approve, one prohibit, three
4 conflict of interests.

5 MS. BURTON: Next material would be the
6 cyclohexamine, and the recommendation was?

7 MR. HARPER: The recommendation was not
8 to add this material to 205.605. The vote is three
9 yes, zero no and three conflict of interest.

10 MS. BURTON: Discussion? I just want to
11 clarify that if we -- if you vote down this material,
12 this still allowed for indirect use and steam contact
13 and that that's understood by this Board. I mean,
14 there was some question that you had whether or not
15 that was really discussed in the processing, and I
16 thought --

17 MR. SIEMON: How are we going to clarify
18 that?

19 MS. CAUGHLIN: Yes.

20 MR. SIEMON: Legally.

21 MR. RIDDLE: It would be a prohibited
22 material and I would think that would fall under

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1 205.270

2 MR. SIEMON: It's already prohibited now.

3 It's not a law --

4 MR. RIDDLE: Yeah, for direct food --

5 MS. BURTON: If that's the ruling --

6 MR. RIDDLE: No contaminations.

7 MS. BURTON: Steve.

8 MS. CAUGHLIN: Prohibited for direct.

9 MS. BURTON: If that's the ruling, then I
10 would recommend an annotation for use --

11 MR. RIDDLE: Under 272.

12 MS. BURTON: -- in indirect contact only.

13 MR. SIEMON: You'd have to allow --

14 MR. HARPER: You have to define what the
15 indirect contact is.

16 MS. CAUGHLIN: Allow for indirect
17 contact.

18 MR. HARPER: I know, but you'd have to
19 sort of -- I think you have to have a definition of
20 what that means.

21 MR. SIEMON: Allow for use when no direct
22 contact with foods.

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1 MR. HARPER: Capping systems and
2 whatever. You have to define what the direct meant.

3 MR. KING: You're talking about a
4 different use, right?

5 MR. SIDEMAN: We're talking about places
6 where --

7 MS. BURTON: Where steam comes -- when
8 steam does not come in direct contact. It's indirect,
9 such as packaging --

10 MR. HARPER: The heating of air space
11 when -- before you put the cap on to make sure you get
12 a vacuum, or sterilizing the inside of the bottle
13 before the food goes into it. Those are the
14 applications that Kim was talking about.

15 CHAIR BRICKEY: Can you define
16 specifically what this use is?

17 MS. BURTON: Yes.

18 CHAIR BRICKEY: How much more do you have
19 to -- indirect?

20 MS. BURTON: You can. Direct would be
21 anything that's directly on the food or on the
22 organic --

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1 CHAIR BRICKEY: Direct is too clear.

2 MS. BURTON: -- contamination is direct
3 and indirect would be packaging, incidental contact.
4 I'm just opening up the discussion because originally
5 when we discussed this in the processing committee we
6 all agreed what was direct and indirect, I thought.

7 MR. HARPER: Yes.

8 MS. BURTON: And voted on this -- or
9 discussed it and made the recommendation based on the
10 fact that these still would be able to be used for
11 indirect contact, that we weren't necessarily
12 prohibiting them for indirect contact. Yes.

13 MS. CAUGHLIN: I think we should give --

14 MR. MATHEWS: I have a question.

15 MR. HARPER: Yes.

16 MR. MATHEWS: You're talking about not
17 allowing it when it's going to have direct contact
18 with the food, but you are talking about allowing it
19 when it's part of the packaging process.

20 MR. KING: Right.

21 MR. MATHEWS: Since if you vote that it's
22 a synthetic, it would seem to me that all you do is

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1 you vote to allow it --

2 MR. KING: Right.

3 MR. MATHEWS: -- in the packaging only.

4 So your annotation is, "for packaging," or whatever
5 the -- cleaning the bottle or whatever. I mean,
6 that's what your annotation would be. We're allowing
7 this synthetic for this use. So you don't have to
8 address prohibited versus allowing, because everything
9 that's going on the list is going to be an allowed
10 use.

11 MR. HARPER: So there would have to be an
12 annotation. Is that correct?

13 MS. BURTON: There would have to be an
14 annotation. You need to decide whether or not you
15 want to take this back to the processing committee or
16 make a vote -- make a recommendation.

17 CHAIR BRICKEY: All right.

18 MS. BURTON: Well, because we're running
19 out of time, and I don't want a huge lot of discussion
20 around this, because this isn't what the processing
21 committee originally intended to do.

22 MR. HARPER: And we can't take this back

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1 and --

2 MS. CAUGHLIN: No. We had an agreement
3 in processing committee.

4 MR. SIEMON: Yes. We just need to get
5 the wording right now, is what we're after.

6 MR. RIDDLE: And there's no way to take
7 --

8 MR. SIEMON: We need to say, "Allowed for
9 use in noncontact with food." That's what we're
10 trying to say here.

11 MS. GOLDBURG: What I find troubling is
12 the term "indirect contact" --

13 MS. BURTON: That's right. Right.

14 MS. GOLDBURG: -- which suggests some
15 contact.

16 MS. BURTON: Okay.

17 MS. GOLDBURG: I don't want it on food.

18 MS. BURTON: Okay. Right. Well --

19 MS. CAUGHLIN: No contact with food,
20 then.

21 MS. GOLDBURG: Right.

22 MS. CAUGHLIN: How's that? It's just

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1 contact with the packaging.

2 MS. BURTON: Packaging, yes.

3 MR. SIEMON: Well, no.

4 MR. MATHEWS: Well, if there wasn't a
5 chance for the contact with food, the FDA would never
6 even have it on their list. I mean, the only reason
7 why the list of chemicals are there to begin with is
8 that remote opportunity for it to come into contact
9 with the food.

10 CHAIR BRICKEY: Incidental contact.

11 MR. MATHEWS: Yes. I mean, otherwise,
12 they wouldn't even have it on their list of approved
13 substances.

14 MS. BURTON: Except that it's being
15 allowed for direct contact, too, by FDA.

16 MR. HARPER: And we say indirect contact.
17 I just don't know if that is going to cover the --
18 that people are going to understand what that means.

19 MS. BURTON: Yes.

20 MR. MATHEWS: Well, what you'd have to do
21 is ask for a definition on indirect contact.

22 MR. CARTER: Can you read the actual

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1 motion as it's being proposed right now?

2 MR. RIDDLE: There isn't a proposal.

3 MR. CARTER: Then, well, what would the
4 committee --

5 MR. RIDDLE: Yes. The committee
6 recommended that it not add the material to the list.

7 MR. CARTER: So the committee -- excuse
8 me, Rosie.

9 MR. SIDEMAN: The committee assumed that
10 it would be okay for packaging.

11 MS. BURTON: Right.

12 MR. CARTER: So if the committee's report
13 is that it not be allowed any direct contact with
14 food, that would seem to --

15 MR. HARPER: But the way the allowances
16 work on synthetic, you have to -- it's got to be a
17 positive annotation in order to allow the synthetic.

18 MR. SIEMON: Can you say, "allowed-
19 noncontact with food," is what we have to do,
20 something like that.

21 AUDIENCE MEMBER: Have you thought of
22 using the words "culinary steam"?

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1 MS. BURTON: It doesn't -- culinary steam
2 has ammonium dioxide in it.

3 AUDIENCE MEMBER: Well, not all --

4 MR. SIEMON: Excuse me.

5 AUDIENCE MEMBER: -- replace the word of
6 "food contact steam."

7 MR. SIEMON: Nonculinary steam is what
8 you're meaning to say?

9 MS. BURTON: Correct. Okay.

10 MR. SIEMON: Nonculinary.

11 MS. BURTON: Does anybody have --

12 AUDIENCE MEMBER: Yes, "for use of
13 nonculinary steam only."

14 MS. BURTON: Do you have a recommendation
15 for an annotation or are you still --

16 MS. CAUGHLIN: No, that doesn't do it.

17 MS. BURTON: Either that or we
18 recommended taking it back to the processing committee
19 and deferring this material.

20 AUDIENCE MEMBER: -- allowed where there
21 is no contact with food.

22 MS. CAUGHLIN: Well, he doesn't -- what

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1 is so difficult about not direct --

2 MR. SIDEMAN: I'm not a processor, but
3 why doesn't that work?

4 MR. HARPER: If you say, for instance,
5 okay, say you have a capping machine. You have a --
6 here's the top of your jars, you know, it's like this.

7 MR. SIDEMAN: Okay.

8 MR. HARPER: And then you have your cap
9 coming down. They blow a puff of steam across the
10 top, then put the cap on. Technically, there's
11 contact of steam with the very top of that food.

12 MR. SIDEMAN: Right.

13 MR. HARPER: Because that takes -- so on
14 the -- for the certifier to go in there and say, oh,
15 this touches the food so you can't use it, there --
16 realistically, there's virtually -- is virtually no
17 contact with the food, even though it is -- and then
18 the other thing is if you got a jar and before you put
19 the jam in there you blow steam in there to sterilize
20 the inside of the jar, I mean, the amount of steam is
21 like inconsequential.

22 MR. SIDEMAN: Right.

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1 MR. HARPER: But -- and then they put the
2 food in there, and that's what Kim was addressing,
3 those type of applications.

4 MS. KOENIG: Indirect contact.

5 MS. BURTON: Nondirect contact.

6 MS. CAUGHLIN: Nondirect.

7 MS. BURTON: Nondirect --

8 MR. HARPER: So you can say "incidental."
9 How about "incidental contact"?

10 MR. SIDEMAN: Yes, I think that's
11 incidental.

12 MR. HARPER: Incidental contact.

13 MS. BURTON: That's like having --

14 MR. MATHEWS: Why can't you just say for
15 "sterilization of" --

16 MR. HARPER: Okay. Sterilization is what
17 -- all of the other applications are used for
18 sterilization of packaging.

19 MS. BURTON: Right.

20 MR. HARPER: Packaging sterilization uses
21 only.

22 MR. MATHEWS: So we say -- using it in

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1 cooking.

2 MR. HARPER: That's right.

3 MS. BURTON: Correct.

4 MR. HARPER: So you could say, "for
5 package sterilization purposes only."

6 MS. BURTON: Only, right. Okay.

7 MR. KING: Only. Okay. Will that work?

8 MR. SIEMON: I'm agreeing with that, but
9 that doesn't mean a cheese plant can't use it where
10 the steam never comes in contact with the food.

11 MR. HARPER: No. No. This --

12 MS. BURTON: You already wrote it on your
13 materials ammonium hydroxide --

14 MR. HARPER: That's not even an issue
15 here because it doesn't come in contact with food at
16 all.

17 MR. RIDDLE: Right.

18 MS. BURTON: Would you read the motion,
19 please, say the motion?

20 MR. SIDEMAN: That doesn't get you
21 October --

22 MS. BURTON: Well, whatever he's going to

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1 suppose.

2 CHAIR BRICKEY: Sterilization, let's go.

3 Let's move along.

4 MR. HARPER: I don't know if I can make a
5 motion now because of conflict of interest.

6 MS. BURTON: Brian.

7 MR. HARPER: It's packaging sterilization
8 only.

9 MR. KING: Only.

10 MR. SIDEMAN: Can he make a motion, even
11 though he can't vote?

12 MR. CARTER: Yes -- make it a positive,
13 yes. Make a motion that it be prohibited except for
14 uses --

15 MR. SIDEMAN: Can he make a motion --

16 MR. CARTER: Oh, can he be allowed to --

17 MR. SIDEMAN: So on conflict of interest
18 I'm not going to vote on it, I probably can make a
19 motion.

20 MS. BURTON: Okay.

21 MS. CAUGHLIN: I think that's not too
22 clear -- clean, because then it shows up in the record

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1 as indeed he --

2 MS. BURTON: He stuck with existing
3 chair.

4 MR. HARPER: He made the other motion.

5 MS. CAUGHLIN: Stay out of it. The rest
6 of us can do it.

7 AUDIENCE MEMBER: Would you please not
8 look at this one material in isolation?

9 MS. CAUGHLIN: Right, it's all three.

10 AUDIENCE MEMBER: Because there also
11 other secondary additives -- glues, detergents,
12 lubricants used on conveyor belts, inks used on bottle
13 caps and pieces used to apply labels to bottles.
14 These are all indirect food additives.

15 They are not -- they have to be food
16 grade, they have to be approved for such use, but they
17 do not come into -- they're not considered processing
18 aids for ingredients by themselves.

19 And for this annotation to go through for
20 this particular application would set a precedent
21 whereby you would be saying that all these aids, all
22 these glues, all these lubricants would need to be

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1 reviewed by the same token, and I don't think anyone's
2 prepared to do that.

3 MR. LOCKERETZ: We have a petition in
4 front of us.

5 MS. BURTON: Correct.

6 MR. LOCKERETZ: If we reject the
7 petition, we reject the petition, dossier closed. We
8 don't have to write down some -- we don't have to
9 approve the complement of this petition. We have to
10 reject this petition, and if we do so then that's the
11 end.

12 MS. BURTON: My concern is just like Jim.
13 If I'm an organic inspector and I've got steam coming
14 down my processing line that is tempering this glass
15 so that I can put organic product in it, and it has
16 this material in the steam, it's a lot different than
17 the glue on the outside of a bottle.

18 MR. MATHEWS: Sure, it's being -- yes,
19 it's contact.

20 MS. BURTON: So the annotation for use is
21 sterilizing equipment or packaging, I am very
22 comfortable with because that's exactly what we might

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1 be needing it for.

2 MR. HARPER: That's what it's used for.

3 MR. LOCKERETZ: It's a guidance, more
4 than any other --

5 MS. BURTON: Yes. Right. If you don't
6 do something with this material we're going to have
7 problems in the industry.

8 MR. SIEMON: So allowed in sterilization
9 and packaging, or allowed in packaging?

10 MS. BURTON: You need somebody to make a
11 motion.

12 MR. CARTER: Phrase the motion how you'd
13 like to have it made, Steve. You're not making the
14 motion.

15 MR. HARPER: Yes.

16 MR. CARTER: Just phrasing it right now.

17 MR. HARPER: Allow only for packaging
18 sterilization purpose -- allowed for packaging
19 sterilization purposes only.

20 MR. CARTER: Okay. I will make that
21 motion.

22 MR. SIDEMAN: Well, I would second it.

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1 CHAIR BRICKEY: We've got to get through
2 this.

3 MR. MATHEWS: Well, we're using more
4 words than we need to. We're approving the substance
5 and the annotation is for packaging sterilization
6 material.

7 MS. BURTON: For packaging sterilization.

8 MR. RIDDLE: Only.

9 MR. MATHEWS: Only.

10 MS. BURTON: It's an annotation only.

11 CHAIR BRICKEY: Thank you.

12 MS. BURTON: Willie.

13 MR. LOCKERETZ: If the stuff gets on
14 directly to the food, the processor is not to be using
15 that stuff, even if we allowed it for sterilization.
16 I mean, how does this --

17 MR. HARPER: They don't use --

18 MS. CAUGHLIN: Willie, you can vote or
19 not, but I think we need to --

20 MS. BURTON: A lot of people are using
21 this material in steam that does not come in direct
22 contact. It's for packaging only.

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1 MR. CARTER: It's for packaging only.

2 MS. BURTON: And by not doing anything
3 with this material we are changing the outcome of what
4 the processing committee discussed earlier.

5 MR. HARPER: This is our jam
6 manufacturers.

7 MS. CAUGHLIN: It's been moved and
8 seconded. Let's vote.

9 MS. BURTON: Okay. This has been moved
10 and seconded. Call for the vote.

11 MR. MATHEWS: All right.

12 AUDIENCE MEMBER: They have a vote?

13 MR. MATHEWS: We're voting on synthetic
14 versus natural.

15 MS. CAUGHLIN: Is this synthetic?

16 MR. MATHEWS: Do you have a problem?

17 AUDIENCE MEMBER: That was my concern,
18 that you hadn't voted --

19 MS. BURTON: Right.

20 MR. MATHEWS: Owusu.

21 MR. BANDELE: Synthetic.

22 MR. MATHEWS: Carolyn.

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1 CHAIR BRICKEY: Synthetic.
2 MR. MATHEWS: Kim.
3 MS. BURTON: Conflict of interest.
4 MR. MATHEWS: Dave.
5 MR. CARTER: It's synthetic.
6 MR. MATHEWS: Goldie.
7 MS. CAUGHLIN: Synthetic.
8 MR. MATHEWS: Becky.
9 MS. GOLDBURG: Synthetic.
10 MR. MATHEWS: Steve.
11 MR. HARPER: Conflict of interest.
12 MR. MATHEWS: Mark.
13 MR. KING: Synthetic.
14 MR. MATHEWS: Rosie.
15 MS. KOENIG: Synthetic.
16 MR. MATHEWS: Willie.
17 MR. LOCKERETZ: Synthetic.
18 MR. MATHEWS: Jim.
19 MR. RIDDLE: Synthetic.
20 MR. MATHEWS: Eric.
21 MR. SIDEMAN: Synthetic.
22 MR. MATHEWS: George.

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1 MR. SIEMON: Conflict.

2 MR. MATHEWS: Bill.

3 MR. WELSH: Synthetic.

4 MR. MATHEWS: All right. So 11
5 synthetic, three COI.

6 MS. BURTON: Now, we're going to vote on
7 the allowance of cyclohexamines with the following
8 annotation.

9 MR. MATHEWS: For packaging sterilization
10 only.

11 MS. BURTON: Okay.

12 MR. MATHEWS: Owusu.

13 MR. BANDELE: Prohibited.

14 MR. MATHEWS: Carolyn.

15 CHAIR BRICKEY: Yes, approved.

16 MR. MATHEWS: Kim -- or Kim is a COI.
17 Dave.

18 MR. CARTER: Approved with the
19 annotation.

20 MR. MATHEWS: Goldie.

21 MS. CAUGHLIN: Approved with annotation.

22 MR. MATHEWS: Becky.

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1 MS. GOLDBURG: Approved with annotation.
2 MR. MATHEWS: Steve, COI. Mark.
3 MR. KING: Approved with annotation.
4 MR. MATHEWS: Rosie.
5 MS. KOENIG: Prohibit.
6 MR. MATHEWS: Willie.
7 MR. LOCKERETZ: Approve with annotation.
8 MR. MATHEWS: Jim.
9 MR. RIDDLE: Prohibit.
10 MR. MATHEWS: Eric.
11 MR. SIDEMAN: Approve with annotation.
12 MR. MATHEWS: George, COI. Bill.
13 MR. WELSH: Approve with annotation.
14 MR. MATHEWS: It's eight to three.
15 That's -- it passes.
16 MR. HARPER: The next material is
17 morpholine.
18 MR. MATHEWS: Same motion then?
19 MS. CAUGHLIN: I would move that it is a
20 synthetic, and also the same annotation, but we have
21 to do it separately, right?
22 MS. BURTON: Yes.

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1 MR. MATHEWS: Yes.

2 MS. CAUGHLIN: Okay.

3 MS. BURTON: Discussion. Or you do you
4 want to say --

5 MS. CAUGHLIN: We need a second.

6 MS. GOLDBURG: I second.

7 MS. CAUGHLIN: Okay. We have a second.
8 Becky seconded.

9 MR. SIDEMAN: Is this morpholine or
10 octadecylamine.

11 ALL MEMBERS: Morpholine.

12 MS. KOENIG: Could I get one point of
13 clarification?

14 MS. BURTON: Sure.

15 MS. KOENIG: Because it just doesn't make
16 sense. I was under the understanding that your
17 committee recommended that the one volatile amine that
18 you thought was appropriate for food technologies was
19 a diethyl -- you know -- a "di" whatever it is --

20 MR. HARPER: DEAE.

21 MS. KOENIG: DEAE. I thought you
22 recommended that all the other ones were not approved.

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1 So why are we -- why was there a change? Did I -- I
2 mean, why did I hear a change?

3 MR. HARPER: The issue here is that there
4 are many, many plants that -- where it does not come
5 in direct contact with food, like say a jam plant
6 where you've got steam heated kettles. And the only
7 place in the whole plant that they use steam would be
8 like on that capper.

9 MS. KOENIG: Which I understand, Steve.
10 Don't get me wrong. But I thought our goal was
11 finding one product that would suffice over a range
12 of --

13 MS. BURTON: For use in organic -- for
14 contact with organic.

15 MS. KOENIG: For food contact use.

16 MS. BURTON: Rosie, when this committee
17 discussed it, five out of six of us were under the
18 assumption that this would be -- that all of these
19 ones that we said we were going to prohibit were going
20 to be allowed for use in packaging.

21 And there was some conflict on the
22 communications. So that is why we're having to change

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1 the way we're going about this.

2 MS. KOENIG: But what about the OFPA? I
3 mean, I understand the OFPA is saying that, okay,
4 there's no natural. But it doesn't necessarily say
5 that then you take all the synthetics that are used
6 and approve them.

7 MR. SIDEMAN: But they're not approving
8 them for food contact, but only for food --

9 MR. MATHEWS: Well, she's saying why not
10 approve the --

11 MS. KOENIG: Well, it's the same thing
12 for cleaning, sterilizing plants in a greenhouse. We
13 have a lot of synthetics that we can use, but we try
14 to choose at least one that we feel is the best for
15 the environment or whatever.

16 We don't say every single synthetic
17 cleaning agent is approved. So I don't understand the
18 -- what this committee is telling us. I mean, we're
19 trusting the processing committee to give us their
20 best recommendation.

21 What I'm hearing is you're saying, well,
22 we're recommending everything that's in front of us

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1 because there -- but then you said that there was one
2 that probably was the best range. But I want to know
3 what your true recommendation is.

4 MS. BURTON: Let me give you an example.

5 In our plant we run -- 25 percent of our products are
6 organic. The only product out of a lot of them that
7 comes in direct contact with steam is when we run
8 organic Concord grapes, and we blanch them.

9 We turn our boiler off. The rest of the
10 year, 360 days of the year, we use a combination of
11 cyclohexamine, morpholine, DEAE and the other one
12 -- octadecylamine probably, in a combined formula just
13 for steam in package -- just for steam in the plant.

14 And in that application to limit it to
15 just the DEAE is not what I would recommend, because
16 we're only -- we're not using it in direct contact
17 with organics.

18 MR. LOCKERETZ: Well, why not just use
19 DEAE?

20 MR. CARTER: I'm trying to think of this
21 from the standpoint of a small producer or a small
22 co-op that's starting to raise some organic. And

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1 they're going in, they don't want to build the bricks
2 and mortar to create a whole new plant.

3 They want to go in and contract with
4 somebody to package their -- now, your ability to
5 contract with a company to package a product. I think
6 you can make the case, look, we can't have any of the
7 steam that you're using coming into contact with our
8 food if it's got, you know, this in it.

9 But to expect a company to change over
10 their whole system to package a little bit of organic
11 product, it's going to lock out a lot of I think small
12 producers or small co-ops that are trying to find a
13 place in the marketplace.

14 And so you know, if it comes into contact
15 with food, that's one thing, but if you're causing
16 somebody to change over their whole plant to package
17 Uncle Fred's, you know, ying-yangs, whatever.

18 MR. HARPER: Well, I think to extend that
19 argument, the contact with the air space across top of
20 that bottle of jam is -- your contact with that food
21 is -- I mean, it's so incidental it's inconsequential.
22 That's -- I think that's the reasoning behind this.

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1 MR. SIDEMAN: What was the petition for?
2 The petition was for all uses. Is that right? For
3 cooking food and for boiler water?

4 MS. BURTON: When we originally
5 petitioned, we have learned a lot of information from
6 all of us and everybody on boiler water --

7 MR. SIDEMAN: The boiling water that they
8 wanted to use this for, what was the use of that
9 boiling water. Is it for cooking?

10 MR. HARPER: Direct contact with --

11 MR. SIDEMAN: That's prohibited now.

12 MS. BURTON: Right. That's right. Yes.

13 MR. HARPER: Right.

14 MS. BURTON: Okay. We have a motion on
15 the floor and a second.

16 MS. CAUGHLIN: Let's push it to a vote,
17 is it synthetic?

18 MS. BURTON: Is it synthetic? We don't
19 have Carolyn here.

20 MS. CAUGHLIN: We have a quorum.

21 MS. BURTON: We do have a quorum. I
22 think we can vote on synthetic without Carolyn.

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1 MS. CAUGHLIN: Okay.

2 MR. KING: Well, wait a minute. So --

3 MR. SIDEMAN: We're voting on --

4 MS. BURTON: We're voting on -- pardon
5 me?

6 MR. HARPER: We're voting on synthetic or
7 natural.

8 MS. CAUGHLIN: Yes, you have a motion and
9 a second. Is that what you asked?

10 MR. MATHEWS: Yes. Is there an
11 annotation with the motion?

12 MS. CAUGHLIN: No. First we vote if it's
13 synthetic --

14 MR. MATHEWS: Or natural.

15 MS. CAUGHLIN: Right now, it's --

16 MR. MATHEWS: All right. Owusu.

17 MR. BANDELE: Synthetic.

18 MR. MATHEWS: Carolyn is absent. Kim,
19 conflict of interest.

20 MS. BURTON: Abstain, conflict.

21 MR. MATHEWS: Dave.

22 MR. CARTER: Synthetic.

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1 MR. MATHEWS: Goldie.

2 MS. CAUGHLIN: Synthetic.

3 MR. MATHEWS: Becky.

4 MS. GOLDBURG: Synthetic.

5 MR. MATHEWS: Steve was conflict of
6 interest. Mark.

7 MR. KING: Synthetic.

8 MR. MATHEWS: Rosie.

9 MS. KOENIG: Synthetic.

10 MR. MATHEWS: Willie.

11 MR. LOCKERETZ: Synthetic.

12 MR. MATHEWS: Jim.

13 MR. SIDEMAN: Synthetic.

14 MR. MATHEWS: Eric.

15 MR. SIDEMAN: Synthetic.

16 MR. MATHEWS: George, COI. And Bill.

17 MR. WELSH: Synthetic.

18 MR. MATHEWS: All right. One absent,
19 three conflicts of interest and 10 synthetic. The
20 product is synthetic.

21 MS. BURTON: Okay. Read the --

22 MS. CAUGHLIN: I don't have the wording

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1 in front of me, but I move that it be --

2 MS. GOLDBURG: Annotated the same way.

3 MS. CAUGHLIN: -- annotated exactly the
4 same way. Thank you.

5 MR. MATHEWS: For packaging and
6 sterilization only.

7 MS. CAUGHLIN: Exactly the same
8 annotation.

9 MR. RIDDLE: Exactly.

10 MS. CAUGHLIN: We need a second.

11 MS. BURTON: It's already been seconded.

12 MS. CAUGHLIN: Very well.

13 MR. CARTER: Second it.

14 MS. BURTON: Dave seconded it.

15 MR. MATHEWS: So it's for discussion.

16 MS. BURTON: It's for discussion.

17 MR. RIDDLE: Yes. I just wanted to
18 respond to Rosie on the question of what it changed,
19 also, because as I looked at 272 very closely, where
20 the handler must implement measures to protect organic
21 products from contact with prohibited substances, this
22 is a prohibited substance, period, then that's an

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1 issue.

2 Now, I think it should be a prohibited
3 substance. That's a different issue. That's my own
4 opinion on it, but that's kind of what --

5 MS. CAUGHLIN: The protection.

6 MR. RIDDLE: -- forced this to have this
7 annotation for this one specific use, I guess.

8 MS. BURTON: Okay. Further discussion?
9 Call for a vote.

10 MR. MATHEWS: Okay. Owusu.

11 MR. BANDELE: Prohibit.

12 MR. MATHEWS: Carolyn is absent. Kim is
13 COI. Dave.

14 MR. CARTER: Approve with annotation.

15 MR. MATHEWS: Goldie.

16 MS. CAUGHLIN: Approved with annotation.

17 MR. MATHEWS: Beck.

18 MS. GOLDBURG: Approve with annotation.

19 MR. MATHEWS: Steve is COI. Mark.

20 MR. KING: Prohibit.

21 MR. MATHEWS: Rosie.

22 MS. KOENIG: Prohibit.

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1 MR. MATHEWS: Willie.

2 MR. LOCKERETZ: Approve with annotation.

3 MR. MATHEWS: Jim.

4 MR. RIDDLE: Prohibit.

5 MR. MATHEWS: Eric.

6 MR. SIDEMAN: Approve with annotation.

7 MR. MATHEWS: George is COI. Bill.

8 MR. WELSH: Approve with annotation.

9 MR. MATHEWS: Three, four, five, six --

10 (Tape 4 concluded; Tape 5 continues as
11 follows:)

12 AUDIENCE MEMBER: Would you please
13 clarify, that means that 205.27(b)(2) implies that
14 everything that's in contact with a bottle or a can or
15 a box has to be on the natural list. Is that what
16 -- is that how you're interpreting as to why we're
17 putting these substances on the natural with that
18 annotation? Is that --

19 MS. CAUGHLIN: The box does not equate
20 to --

21 MS. GOLDBURG: It's in the bottle where
22 the food goes -- the interior rather than the

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1 exterior.

2 AUDIENCE MEMBER: If anything comes into
3 contact with the container.

4 MR. KING: Correct.

5 MS. CAUGHLIN: No.

6 MR. RIDDLE: And then it stays in there.

7 So if something is rinsed off, but --

8 AUDIENCE MEMBER: The various detergents
9 and cleaning compounds applied to the food contact
10 surface of the inside of a box. Say so if you have a
11 bottler who is using, has volatiles in his detergent
12 and his detergent is used by that bottler, you need to
13 have -- to use detergents that are on the national
14 consensus.

15 MS. BURTON: Okay. Let's move forward.
16 We have --

17 MR. MATHEWS: The motion failed.

18 AUDIENCE MEMBER: What's the tally?

19 MR. MATHEWS: Six-four.

20 MS. BURTON: Would you say that again?

21 MR. MATHEWS: Morpholine failed, six
22 approved, four prohibit. It still would have failed.

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1 It needed at least eight vote in order to pass.

2 MS. CAUGHLIN: Okay. So morpholine --

3 MS. BURTON: Okay. The next item is --
4 octadecylamine. Okay. We're going to vote on whether
5 it's synthetic or natural.

6 MS. GOLDBURG: I move to vote on whether
7 it's synthetic or natural.

8 MR. RIDDLE: Second.

9 MR. MATHEWS: Owusu.

10 MR. BANDELE: Synthetic.

11 MR. MATHEWS: Carolyn.

12 CHAIR BRICKEY: Synthetic.

13 MR. MATHEWS: Kim.

14 MS. BURTON: Conflict of interest.

15 MR. MATHEWS: COI. Dave.

16 MR. CARTER: Synthetic.

17 MR. MATHEWS: Goldie.

18 MS. CAUGHLIN: Synthetic.

19 MR. MATHEWS: Becky.

20 MS. GOLDBURG: Synthetic.

21 MR. MATHEWS: Steve, C of I. Mark.

22 MR. KING: Synthetic.

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1 MR. MATHEWS: Rosie.

2 MR. KOENIG: Synthetic.

3 MR. MATHEWS: Willie.

4 MR. LOCKERETZ: Synthetic.

5 MR. MATHEWS: Jim.

6 MR. RIDDLE: Synthetic.

7 MR. MATHEWS: Eric.

8 MR. SIDEMAN: Synthetic.

9 MR. MATHEWS: George, C of I. Bill.

10 MR. WELSH: Synthetic.

11 MR. MATHEWS: It's synthetic by 11.

12 MR. LOCKERETZ: And it's name is
13 octadecylamine.

14 MS. BURTON: Octadecylamine, whatever.

15 MR. SIEMON: Since we kind of are holding
16 out this DEAE here, I just wanted to ask, if we pass
17 this one the way it is now, but yet upon further
18 review we decided it was the best one, we could
19 certainly go back and change it still, right?

20 MS. CAUGHLIN: No.

21 MS. BURTON: You can always request
22 something be reviewed if you have further information

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1 and a new petition submitted.

2 MR. SIEMON: Okay. Fine. Whatever.

3 MR. CARTER: I move for use only in
4 sterilization of packaging.

5 MS. GOLDBURG: Second.

6 AUDIENCE MEMBER: I have a question for
7 Steve. Because it's a philamine is it ever used for
8 packaging? My understanding because of its --
9 ability it's --

10 MR. SIDEMAN: That is a good question.
11 We would look silly approving it for packaging if it's
12 never used.

13 MS. BURTON: Usually, it's a combination
14 of the --

15 MR. HARPER: I do know there are a number
16 of plants, and I can't tell you the number of plants
17 that --

18 CHAIR BRICKEY: May I suggest --

19 MR. HARPER: -- use a combination of --

20 CHAIR BRICKEY: -- that there's two
21 options.

22 MR. HARPER: -- DEAE --

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1 CHAIR BRICKEY: Further action on this
2 material or we can --

3 MS. BURTON: No.

4 CHAIR BRICKEY: -- vote to prohibit. We
5 don't want to approve it for some uses we don't know
6 exist. What's the --

7 MR. HARPER: I know they exist. I know
8 there are plants that use a combination of say DEAE
9 and cyclohexamine. I don't know they're doing that,
10 but that's --

11 CHAIR BRICKEY: No. I didn't mean to
12 use for anything.

13 MR. HARPER: Oh, I'm sorry. I'm sorry.

14 CHAIR BRICKEY: I mean for packaging or
15 sterilizing.

16 MR. HARPER: Oh. Well, even if it's in
17 the plant --

18 MS. BURTON: It's in the DEAE --

19 MR. HARPER: If it's even seen in the
20 plant, it goes everywhere in the plan.

21 MS. BURTON: Yes.

22 CHAIR BRICKEY: Did you second it?

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1 MS. BURTON: I second it. Okay.

2 MR. MATHEWS: The court reporter's having
3 some real problems with everybody talking at the same
4 time.

5 MS. BURTON: We've had a motion and a
6 second. Further discussion? Rick?

7 MR. MATHEWS: Okay. So the annotation
8 reads: "For packaging, sterilization only." But
9 we've already done synthetic.

10 MS. BURTON: Yes.

11 MS. CAUGHLIN: Yes.

12 MR. MATHEWS: Just conforming the
13 annotation.

14 MS. BURTON: Correct.

15 MR. MATHEWS: Owusu.

16 MR. BANDELE: Prohibit.

17 MR. MATHEWS: Carolyn.

18 CHAIR BRICKEY: Approve it.

19 MR. MATHEWS: Kim, C of I. Dave.

20 MR. CARTER: Approve with annotation.

21 MR. MATHEWS: Goldie.

22 MS. CAUGHLIN: Approve with annotation.

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1 MR. MATHEWS: Becky.

2 MS. GOLDBURG: Approve with annotation.

3 MR. MATHEWS: Steve, C of I. Mark.

4 MR. KING: Approve with annotation.

5 MR. MATHEWS: Rosie.

6 MS. KOENIG: Prohibit.

7 MR. MATHEWS: Willie.

8 MR. LOCKERETZ: Approve with annotation.

9 MR. MATHEWS: Jim.

10 MR. RIDDLE: Prohibit.

11 MR. MATHEWS: Eric.

12 MR. SIDEMAN: Approve with annotation.

13 MR. MATHEWS: George, C of I. Bill.

14 MR. WELSH: Approve with annotation.

15 MR. MATHEWS: This one passes eight to

16 three.

17 MR. SIDEMAN: That's weird.

18 MR. SIDEMAN: That's because of the FOIA

19 information.

20 MR. RIDDLE: We got morpholines.

21 MR. SIDEMAN: It's FOIA.

22 MR. RIDDLE: We got a lot less --

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1 MR. LOCKERETZ: What's next.

2 MR. HARPER: Okay. The next one -- the
3 next material is diethylene aminoethanol and the
4 committee recommended that the NOSB defer action on
5 this material until the next meeting.

6 CHAIR BRICKEY: There will be no action.

7 MR. HARPER: Okay. Do we have to vote on
8 a deferral?

9 CHAIR BRICKEY: No.

10 MR. HARPER: We don't? Okay. The next
11 material is potassium hydroxide, and this is a
12 material that was deferred from the last meeting. And
13 on this particular material, the -- well, okay. The
14 recommendation from the committee is that the
15 committee recommend to the NOSB that they amend the
16 present annotation in 205.605 to read the following:
17 "Prohibited for use in peeling of fruits and
18 vegetables, with the following exceptions."

19 And I've got it here for you. You can
20 read it: "May be used for peeling of peaches within
21 the IQF (individually quick frozen) production
22 process."

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1 CHAIR BRICKEY: Did the committee --

2 MR. HARPER: That's right. And the
3 committee vote on that was six yes, zero no.

4 MR. LOCKERETZ: Then are we replacing a
5 current annotation?

6 MR. HARPER: Okay. The current
7 annotation is "prohibited for use in peeling of fruits
8 and vegetables."

9 MR. SIEMON: While live peeling.

10 MR. HARPER: Right, live peeling.

11 MS. BURTON: So would you read it in its
12 entirety, what the entire annotation would be?

13 MR. HARPER: Well, the entire annotation,
14 okay, I guess it's -- 205.605 --

15 MR. SIEMON: It's 605(b)27: "Prohibited
16 for use in live peeling of fruits and vegetables." So
17 it's allowed --

18 MR. HARPER: Yes. The previous Board did
19 discuss this. Right now, the annotation is:
20 "Potassium hydroxide" -- wait. I'm sorry. Wait.
21 Wait. Wait. Excuse me: "Potassium hydroxide,
22 prohibited for use in live peeling of fruits and

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1 vegetables."

2 So what that means is potassium hydroxide
3 is allowed, but then the annotation is prohibited for
4 use in live peeling of fruits and vegetables. So it's
5 allowed for incidental -- basically, all other uses is
6 the current annotation.

7 MR. SIDEMAN: You could actually use it
8 as an ingredient.

9 MR. HARPER: It can be used as an
10 ingredient.

11 MR. SIEMON: So we're going to now take
12 all annotations away.

13 MS. CAUGHLIN: It's used in bagels.

14 MR. HARPER: It's used in pretzels. It's
15 used in the --

16 CHAIR BRICKEY: I mean, not bagels,
17 pretzels.

18 MS. GOLDBURG: Right.

19 MR. HARPER: It can be used.

20 MR. SIEMON: So why peaches only.

21 MR. HARPER: And so the change in the
22 annotation from what's in there is that the new

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1 information of the petition has been supplied to
2 change the adaptation, basically, to allow just that
3 use for IQF peaches because the petitioner did
4 extensive experimentation to try to do all other
5 alternatives and the provided information showed that
6 really there was no other alternative.

7 CHAIR BRICKEY: I must be
8 misunderstanding you.

9 MR. SIDEMAN: Why are -- let me try to
10 straighten this out.

11 MR. HARPER: Sure. Do you want me to
12 explain why that annotation was there originally?

13 MR. SIDEMAN: Why did we allow it for
14 everything before, and now we're not allowing it for
15 anything else?

16 MS. BURTON: No, we didn't.

17 MS. CAUGHLIN: We didn't allow --

18 MS. BURTON: We allowed it for --
19 prohibited.

20 MR. SIDEMAN: No. No. No. No.

21 MR. HARPER: Previous Boards allowed it
22 for other uses except for the --

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1 MS. BURTON: Live peeling of vegetables.

2 MR. HARPER: -- live peeling, because --

3 MR. SIDEMAN: And now, you're not going
4 to allow it for any uses but peeling live.

5 MR. HARPER: No. No.

6 MS. BURTON: No. No.

7 MS. CAUGHLIN: Eric, you could --

8 MR. HARPER: This is --

9 MR. SIDEMAN: I could.

10 MR. HARPER: -- you have to -- bear with
11 me, okay.

12 MS. BURTON: The petition was
13 specifically -- the petition was specifically to
14 amend the annotation for one use, and the processing
15 committee agreed on that annotation and that request.

16 CHAIR BRICKEY: Okay. Kim, just state to
17 me without anybody else talking, what is the current
18 situation on this, before this petition --

19 MS. BURTON: That it was allowed for any
20 use without -- with the exception of peeling of fruits
21 and vegetables.

22 MR. HARPER: Live peeling of fruits.

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1 MS. BURTON: Live peeling.

2 CHAIR BRICKEY: Okay. And now, you would
3 maintain this prohibition except for allowing it for
4 the peaches.

5 MS. BURTON: Correct.

6 CHAIR BRICKEY: Not just whole peaches.

7 MS. BURTON: Just IQF only.

8 MR. SIEMON: And that's because there's
9 other methods to do the other peeling?

10 MS. BURTON: There's other methods to
11 peel tomatoes or to peel other processing fruit,
12 mechanical versus chemical, and this case there are no
13 other alternatives.

14 MR. HARPER: Also to deal with canned
15 peaches, too, you don't need to --

16 MR. MATHEWS: So this is for live
17 peeling?

18 MS. KOENIG: Can I explain it?

19 MS. BURTON: Sure, Rosie.

20 MS. KOENIG: From my understanding
21 -- with peaches you can -- you have to use it on the
22 IQF. When you use it for yogurt you want chunks in

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1 it. And that's the only -- you have to live peel it
2 to get that consistency of the peach. You can, you
3 know, have it pureed.

4 you could do it with water -- annual
5 harvest, mechanical process, but it comes out with no
6 good texture for like yogurt. So very specific use
7 for certain processing.

8 MR. KING: Without this it tends to
9 damage.

10 MR. MATHEWS: But it's still the live
11 process.

12 MS. KOENIG: Yes, because you can do it
13 -- the problem -- with the tomatoes you can
14 effectively do with water.

15 MS. BURTON: Correct.

16 MS. KOENIG: And pressure.

17 MR. HARPER: Well, it's a live process,
18 but most manufacturers that do live processing use
19 sodium hydroxide. So actually, this is even -- this
20 is a more minimally live process, more minimal impact
21 that sodium hydroxide.

22 MS. BURTON: Okay. It might seem ironic

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1 or funny, but that's -- the recommendation from the
2 processing committee.

3 MR. HARPER: So and then just to clarify
4 to people, I mean, most other people -- as far as
5 -- most other people can use steam peeling of other
6 fruits and vegetables. It works. But on peaches,
7 steam peeling does not work because of the tenderness
8 of that fruit. It just doesn't -- it's not effective.

9 MS. CAUGHLIN: And we also looked at the
10 rinsing process, the length of time that it was in
11 contact with the caustic and it is very well rinsed,
12 Carolyn.

13 MS. BURTON: They've provided a lot of
14 documentation for this Board to review.

15 MS. CAUGHLIN: Which we got within the
16 last two or three days.

17 MR. HARPER: And the other part of this
18 that we considered, there's a huge consumer market for
19 IQF peeled peaches in different applications.

20 MS. CAUGHLIN: And it is in a package.

21 MR. HARPER: They have a --

22 MS. BURTON: Dave had his hand up.

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1 MR. CARTER: Now, I'm confused. The IQF
2 use it for this. They're still using it for -- it's
3 still live peeling? It's still --

4 MS. CAUGHLIN: No other process is made -
5 -

6 MS. BURTON: Only for IQF peaches.

7 MR. CARTER: But it's still live peeling
8 because it specifically says in the Rule. So we can
9 amend that for -- okay.

10 MS. BURTON: Yes. Would you --

11 MR. MATHEWS: It says: "Potassium
12 hydroxide prohibited for use in live peeling of fruits
13 and vegetables."

14 MS. BURTON: Right.

15 MR. HARPER: "With the following
16 exception. May be used for peeling of peaches during
17 the IQF process."

18 MS. BURTON: You read this, you go
19 through the pre-petition process and then -- okay.
20 Discussion.

21 MR. KING: I am one of the people, if not
22 the person, that requested this extra information

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1 concerning number of rinses, how the process happens.

2 I counted at least five rinses after the caustic is
3 applied. Then it goes into a soaking thing for
4 several minutes.

5 So yes, it is in this case live peeling,
6 but you need to understand the whole process. So that
7 was why I supported it.

8 MS. BURTON: Jim. I'm sorry.

9 MR. RIDDLE: Yes. I found that
10 convincing, too, plus the fact that the petitioner had
11 tried alternatives, including pre-peeling. They had
12 done their homework, I found. But I question if
13 peeling peaches was essential, but I don't peel them
14 at home and they're just fine. But that's different
15 than putting them in a cup of yogurt.

16 AUDIENCE MEMBER: I have an observation
17 about this. We spent years in California when I was
18 on the board there with this issue. The petitioners
19 tried to get some action in California Advisory Board
20 on this particular issue.

21 And something that was very apparent to
22 me, regardless of the amount of work that the

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1 petitioner went through to prove the process, in fact,
2 did not have any residual left on the fruit, the
3 rinses were efficient.

4 The thing that bothers me and I just
5 cannot hold my tongue about this with you guys is that
6 this is a very specific market-oriented use. And as
7 Carolyn mentioned a minute ago, the precedent for this
8 is opening up the way for all manner of little uses by
9 your one manufacturer for one crop in the marketplace
10 to receive approval for materials because you're doing
11 it for this one.

12 And to me it's so -- I'm very concerned
13 about it.

14 MR. HARPER: The organic market is a very
15 small market use, I mean, to be honest with you. I
16 mean, the whole organic industry is a sort of an
17 exception to --

18 MS. BURTON: The petitioner did supply, I
19 mean, data. We asked him for tonnage of the amount of
20 peaches for the last four years, of the tonnage of IQF
21 peaches and what it is today and what kind of impact
22 that's going to do on the industry. So I mean, our

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1 recommendation --

2 MR. CARTER: A very small part of it.

3 MS. BURTON: Absolutely.

4 MR. CARTER: And we're going to have a
5 lot of material to look at it, but that's --

6 MR. HARPER: But we have done that with
7 crops. We've done it in many, many, many instances.

8 MR. KING: Right.

9 MR. HARPER: In specific applications.

10 MS. BURTON: Okay. I'd like to move the
11 question. Okay.

12 MR. LOCKERETZ: Any other discussion?

13 MS. BURTON: Okay. Let's vote on whether
14 it's a synthetic or natural, and if you have a
15 conflict of interest please state it, as it's --

16 MR. LOCKERETZ: Well, it's already --

17 MR. SIEMON: It's already a synthetic.

18 MR. KING: Yes, we've done all that.

19 MS. BURTON: Oh, it's already -- okay.

20 MR. MATHEWS: Change the annotation.

21 MS. BURTON: Change the annotation.

22 MR. LOCKERETZ: Also, could we have a --

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1 synthetic is not the relevant thing.

2 MS. BURTON: Correct. Thank you.

3 MR. RIDDLE: So I move that we change the
4 annotation as stated on the committee report.

5 MR. LOCKERETZ: Could we read it one more
6 time, please?

7 MR. RIDDLE: Oh, sure, and I probably
8 would save a few words there:

9 "Prohibited for use in live peeling of
10 fruits and vegetables, with the following
11 exception. May be used for peeling
12 peaches during the IQF (individual quick
13 frozen) production process."

14 Correct?

15 MS. CAUGHLIN: So when we vote, we vote
16 to approve those words.

17 MR. HARPER: You're voting to change the
18 annotation.

19 MS. BURTON: We have a motion. Do we
20 have a second?

21 MR. RIDDLE: I second it.

22 MR. SIEMON: Okay. I've got -- do we

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1 know enough to know that there's not other stone
2 fruits that need this?

3 MR. RIDDLE: We researched that.

4 MS. CAUGHLIN: We did research that, to
5 the best of our abilities.

6 MS. CAUGHLIN: We did research it, and
7 again, this committee, to the best of our ability, are
8 making this recommendation.

9 MR. RIDDLE: Kim, can we vote --

10 AUDIENCE MEMBER: What about organic
11 canned peaches? I know they're not on the market now.

12 MS. CAUGHLIN: No.

13 MS. BURTON: We checked with the
14 supplier. We checked with numerous people and they
15 said they didn't need this process for canned fruits.

16 I'd like to -- let's just keep going. We
17 have a motion on the floor and a second. Any further
18 discussion from the Board?

19 MR. LOCKERETZ: The summary says stone
20 fruits and says that for peaches, nectarines and
21 apricots. They're all grouped together in the
22 summary.

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1 MS. CAUGHLIN: That's not our
2 recommendation.

3 MR. BANDELE: That was what I was
4 thinking; those are supposedly related. We say stone
5 fruits then that would prevent somebody with
6 nectarines later on.

7 MS. BURTON: We didn't hear any response
8 from anybody else in the industry. This has been a
9 controversial issue. It's been deferred once and
10 we've only heard from the petitioner requesting this
11 annotation.

12 MR. LOCKERETZ: Okay.

13 MR. RIDDLE: Then can we change the
14 annotation if the --

15 MS. BURTON: Yes, we can, if there's
16 further information.

17 MS. CAUGHLIN: Move to vote.

18 MS. BURTON: Move to vote. Vote is to
19 change the annotation.

20 MR. HARPER: Right.

21 MR. RIDDLE: So this is even going --

22 MS. BURTON: Rick's still got to document

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1 it.

2 MR. MATHEWS: Owusu.

3 MR. BANDELE: Approve with -- with the
4 annotation, approved.

5 MR. MATHEWS: Carolyn.

6 CHAIR BRICKEY: Approved.

7 MR. MATHEWS: Kim.

8 MS. BURTON: Approved.

9 MR. MATHEWS: Dave.

10 MR. CARTER: Approve.

11 MR. MATHEWS: Goldie.

12 MS. CAUGHLIN: Approved.

13 MR. MATHEWS: Becky.

14 MS. GOLDBURG: Approved.

15 MR. MATHEWS: Steve.

16 MR. HARPER: Approved.

17 MR. MATHEWS: Mark.

18 MR. KING: Approved.

19 MR. MATHEWS: Rosie.

20 MS. KOENIG: Approved.

21 MR. MATHEWS: Willie.

22 MR. LOCKERETZ: Approved.

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1 MR. MATHEWS: Jim.

2 MR. RIDDLE: Approved.

3 MR. MATHEWS: Eric.

4 MR. SIDEMAN: Approved.

5 MR. MATHEWS: George.

6 MR. SIEMON: Approved.

7 MR. MATHEWS: Bill.

8 MR. WELSH: Approved.

9 MR. MATHEWS: Unanimous.

10 MS. BURTON: Next material is cellulose.

11 Oh, I'm sorry. I'm sorry, sodium phosphate is what's
12 next on the list.

13 MR. HARPER: Okay. On sodium phosphate,
14 the current listing on sodium phosphate is it's
15 approved for dairy use only. But sodium phosphate's
16 apparently listed as approved for dairy use only on
17 605 -- 205.605. So that's the current situation.

18 The processing committee recommended that
19 the NOSB make no change to the present annotation.
20 The vote was five yes, zero no and one abstain. The
21 petition -- just so people understand, the petition
22 was to reconsider this for a use in a particular -- it

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1 was a specific food product.

2 But the committee in this case voted it
3 was an extremely minor, very specific type of food
4 product in a very specific application, that the
5 processing committee did not feel it was appropriate
6 to extend any annotations there. So the vote was to
7 recommend not making a change.

8 MR. LOCKERETZ: Could you explain?

9 MR. HARPER: And then the -- in the
10 petition we considered all the uses of sodium
11 phosphates, and in looking at the whole -- looking at
12 use of sodium phosphates as buffers, as cooking
13 stabilizers, as pH adjusters, there's a multitude of
14 uses for sodium phosphate.

15 For the most part, almost every one of
16 those applications there's probably -- materials that
17 are presently on the lists, such as potassium citrate,
18 other emulsifiers. And so we felt like we did not
19 want to extend the use of this.

20 MR. LOCKERETZ: Could you explain why it
21 should be allowed in dairy products, but not in
22 imitations -- soy imitation products?

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1 MR. HARPER: I can't explain to you why
2 it should be. I mean, just explain --

3 MR. LOCKERETZ: Well, what was the
4 thinking of the committee in saying -- thinking that
5 despite the fact that it's approved for dairy products
6 it should not be approved for soy milk?

7 MR. HARPER: Well, the soy milk, the
8 application here was for a particular pH at a certain
9 -- particular pH range at a certain heating process,
10 as an extremely narrow use of the material.

11 MR. SIEMON: Just what, for soy milk, soy
12 -- tofu, for --

13 MS. BURTON: Do you want me to read the
14 specific request? The specific request was:

15 "To include sodium phosphates on the
16 national list for use in food and
17 beverage products formulated with soy
18 milk and dry soy milk similar to or
19 equivalent to dairy products."

20 MR. SIEMON: So a pretty broad
21 application is what they were trying to for.

22 MR. HARPER: It's a very broad

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1 application. In the investigation that the processing
2 committee did, the information that came out, that in
3 actuality almost all the applications that were
4 petitioned for were covered by other additives that
5 were already on that -- already on the list.

6 And it was actually a very specific, like
7 I said, of a certain pH with a certain heating process
8 that the petitioner was really looking for this
9 exemption for.

10 CHAIR BRICKEY: It sort of sounds to me
11 like the peaches.

12 MR. RIDDLE: Yes. There was no proof of
13 it being essential. That's one big difference with
14 the peaches. The peach people had done their
15 homework, and here, we didn't have that kind of
16 compelling evidence of this material being essential.

17 There are other materials which are
18 approved which are used in a variety of soy foods.

19 MR. HARPER: And this was also for a
20 novel new product that doesn't even exist on the
21 market at the present time and is not even an existing
22 product.

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1 MS. BURTON: Yes. That was one of my
2 questions. I think Steve actually called the
3 manufacturer and said, what are you exactly using this
4 for, it's such a broad based use, you know, what are
5 your needs.

6 MR. HARPER: And it's for the product
7 that doesn't even exist in the marketplace at the
8 present time, a novel new product, that is, the person
9 that would come up with the -- wanted to use it for
10 this.

11 CHAIR BRICKEY: Okay.

12 MR. HARPER: It was such a narrow
13 exception that we felt like to expand its use to all
14 foods, the extension to all foods would be really
15 opening the barn door -- opening up to all the uses.
16 For example, use in meat products for its use to
17 basically add additional water or, you know,
18 additional water, all kinds of things that the
19 consumers are very averse to in this particular case.

20 MR. BANDELE: But the petition wasn't
21 meant to -- right?

22 MR. HARPER: No, I agree.

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1 MR. RIDDLE: You also explained I think
2 another relevant issue, especially the difference
3 between the dairy and the soy versus was impact of the
4 material on calcium levels, which are already low in
5 soy products, but relatively high in dairy.

6 MR. HARPER: I'm sorry. There is concern
7 that phosphates -- and this was discussed in review
8 and it was not really -- or people had felt both ways
9 in the review, that phosphates that have some affect
10 on binding calcium and making it not available to the
11 -- for bioavailability to humans.

12 And there is concern about that and there
13 are, certainly, papers addressing that, where -- and
14 so that's another -- I mean, there's a number of
15 factors that we've met in this.

16 MR. RIDDLE: So I move whatever it is --
17 what we need to do, then, we retain the current
18 annotation, I guess, that we do not change the
19 annotation.

20 MS. KOENIG: I second.

21 MS. BURTON: Okay.

22 MR. LOCKERETZ: The motion to the

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1 addendum -- put to allow it, and then if you don't
2 like it to vote against the motion.

3 MR. RIDDLE: It's already on the list.
4 It already has an annotation.

5 MR. SIDEMAN: It's already on the list.

6 MS. BURTON: Yes, it's --

7 MR. RIDDLE: Changing the annotation.

8 MR. LOCKERETZ: The motion should be to
9 extend the annotation and those people who don't want
10 it, vote against it. I think either way --

11 MS. CAUGHLIN: Why? Why would you do
12 that?

13 MS. BURTON: Well, basically, the
14 committee was recommending no change.

15 MS. CAUGHLIN: No change.

16 MS. BURTON: In the application.

17 MR. HARPER: Right. The committee's
18 recommending that there be no change to the present
19 annotation, and that's the motion --

20 MS. CAUGHLIN: Retain current status
21 would be how I would approach it.

22 MR. RIDDLE: We need to vote.

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1 MR. HARPER: I guess if nobody makes a
2 motion to vote, you don't actually need to vote on it.

3 MS. BURTON: Okay.

4 MR. MATHEWS: We need to bring closure
5 here.

6 MR. RIDDLE: We have a motion.

7 MS. BURTON: Okay. We have a motion.

8 MR. RIDDLE: It's been seconded.

9 MS. BURTON: It's been seconded, for the
10 annotation to remain as is.

11 MR. RIDDLE: Right.

12 MR. HARPER: And we did this with one of
13 the first materials that we voted on. We just went
14 around the table and whether we agreed to that or not,
15 correct?

16 MR. BANDELE: I just have some
17 unreadiness here, though. I just can't understand,
18 like the terms of the peach situation. I know they
19 don't have alternatives. It seems to me like some of
20 these soy products at some point would be even a
21 bigger market than peaches. And if it's already
22 allowed in dairy I just don't understand -- I just --

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1 MS. CAUGHLIN: This doesn't even reflect
2 a product. It doesn't even -- it's not even to the
3 R&D stage and they didn't make any kind of a real case
4 or showing that it was something that they had to have
5 to come up with a mainly texture of pudding type
6 things that they might want to do. I mean, it was
7 very nebulous.

8 MS. BURTON: Willie.

9 MR. LOCKERETZ: If we vote to reject this
10 petition we are voting to reject this petition. We're
11 not voting to leave the annotation unchanged. Those
12 are not the same thing. If you vote to leave the
13 annotation unchanged, you haven't said what you're
14 rejecting.

15 MS. CAUGHLIN: Okay.

16 MS. BURTON: Right.

17 MR. LOCKERETZ: And therefore, it should
18 be to approve or reject this petition.

19 MS. BURTON: Yes.

20 MR. LOCKERETZ: If you don't want this
21 petition, vote no.

22 MS. BURTON: Okay. The committee's

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1 recommendation, then, was to reject this petition.

2 MR. RIDDLE: I take it as a friendly
3 amendment.

4 MS. BURTON: Okay.

5 MR. RIDDLE: There's a motion on the
6 floor.

7 MR. HARPER: Any more procedural
8 discussion?

9 MS. BURTON: Move to vote.

10 MR. MATHEWS: But so in light of what
11 Willie's saying, and Jim making a motion to amend, am
12 I to understand, then, that what we're really voting
13 on is whether or not to accept the amendment as
14 suggested by the petitioner.

15 MR. LOCKERETZ: Yes.

16 MS. BURTON: And therefore rejecting --

17 MR. MATHEWS: And reading the vote yes or
18 no.

19 MS. BURTON: Yes.

20 MR. HARPER: Right.

21 MR. MATHEWS: Okay.

22 CHAIR BRICKEY: You make it a lot cleaner

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1 this way.

2 MR. MATHEWS: Do we know what the
3 petitioner wanted it to say?

4 MS. BURTON: Yes, I read that.
5 Petitioner was requesting the addition -- I don't have
6 the exact annotation in front of me, but to include
7 soy milk or dry soy milk products.

8 MR. MATHEWS: Soy milk.

9 MS. BURTON: Soy milk or dry soy milk
10 products.

11 MR. MATHEWS: All right. Then if the
12 motion is going to be to amend the current annotation
13 to add --

14 MS. CAUGHLIN: No.

15 MS. BURTON: No. No. No.

16 MS. CAUGHLIN: We just are flat-out
17 rejecting --

18 MR. LOCKERETZ: We have to know what we
19 --

20 MR. MATHEWS: But Willie's right. We've
21 got to vote on what the petitioner asked for. So what
22 the petitioner is asking for is an amendment to the

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1 annotation to add soy milk or dry soy milk products.

2 MR. CARTER: Yes, but the motion is to
3 reject that request.

4 MS. BURTON: Right.

5 MS. CAUGHLIN: Okay. The motion was to
6 -- I mean, the petition was to include sodium
7 phosphates on the list, natural list for use in food
8 and beverage products, for use in soy milk and dry soy
9 milk similar to or equivalent to dairy products. Do
10 we move to reject that specific request?

11 MR. SIEMON: Yes, that covers what Kim
12 said.

13 MS. BURTON: Okay. Call for a vote. And
14 again, if you have a conflict of interest please state
15 it.

16 MR. MATHEWS: All right. Let's make sure
17 everybody understands what we're really voting here,
18 because this could be worded in two different ways and
19 you could then be voting on something you don't really
20 want.

21 The petitioner has asked that we add to
22 the existing annotation the addition of soy milk or

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1 dry soy milk products. The motion by the committee is
2 to not change the annotation. So you would be voting
3 to not change the annotation.

4 So if you say approved, you're not
5 changing the annotation. If you say prohibit -- or
6 not, you're voting to change the annotation. Okay. I
7 want to make sure we're all straight on that. All
8 right. Owusu.

9 MR. BANDELE: I'm voting to accept the
10 request.

11 MR. MATHEWS: All right. So you'd be for
12 the --

13 MR. LOCKERETZ: Excuse me.

14 MS. BURTON: Yes.

15 MR. LOCKERETZ: The form that we're
16 filling out here says "approved or prohibited."

17 MR. BANDELE: Yes.

18 MR. RIDDLE: What do you vote?

19 MR. LOCKERETZ: It means the substance
20 approved or prohibited, the petition approved or
21 prohibited.

22 MR. MATHEWS: Yes.

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1 MR. LOCKERETZ: It doesn't mean the
2 negative --

3 MR. MATHEWS: Right.

4 MR. LOCKERETZ: -- rephrasing.

5 MR. RIDDLE: Can we make a yes or no on
6 it?

7 MR. MATHEWS: The simplest thing to do is
8 to simply say, the motion is to amend the annotation
9 in the way that the petitioner wants. You either vote
10 yes or not.

11 MR. BANDELE: Right, yes.

12 MR. MATHEWS: Okay.

13 MR. MATHEWS: We're voting to amend the
14 annotation as requested by the petitioner.

15 MR. SIEMON: So no is the answer if you
16 don't want to change it.

17 MR. MATHEWS: Right. That's correct.
18 Vote no, a no means yes.

19 MR. HARPER: The recommendation of the
20 processing committee is to vote no.

21 MR. RIDDLE: Correct.

22 MR. MATHEWS: Yes.

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1 MR. MATHEWS: Kim.
2 MS. BURTON: Abstain.
3 MR. MATHEWS: Dave.
4 MR. CARTER: No.
5 MR. MATHEWS: Goldie.
6 MS. CAUGHLIN: Prohibit.
7 MR. MATHEWS: Becky.
8 MS. GOLDBURG: No.
9 MR. MATHEWS: Steve.
10 MR. HARPER: No.
11 MR. MATHEWS: Mark.
12 MR. KING: Prohibit.
13 MR. MATHEWS: Rosie.
14 MS. KOENIG: No, prohibit.
15 MR. MATHEWS: Willie.
16 MR. LOCKERETZ: Approve.
17 MR. MATHEWS: Jim.
18 MR. RIDDLE: No.
19 MR. MATHEWS: Eric.
20 MR. SIDEMAN: No.
21 MR. MATHEWS: George.
22 MR. SIEMON: Approve.

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1 MR. MATHEWS: Bill.

2 MR. WELSH: No.

3 MR. MATHEWS: Okay. We've got one
4 abstention, three approves and 10 nos. The motion
5 fails.

6 MR. LOCKERETZ: It fails?

7 MR. RIDDLE: That was a yes or no.

8 MS. BURTON: Okay. Cellulose.

9 MS. BURTON: I would suggest
10 everybody gets their petitions out for this one.
11 We've got a number of different categories to go
12 through.

13 MS. CAUGHLIN: What are we doing?

14 MS. BURTON: Cellulose, or at least
15 sharing here --

16 MS. CAUGHLIN: Can we take a five-minute,
17 just five-minute break, please.

18 MS. BURTON: Five minutes.

19 (Whereupon, a recess was taken
20 at 4:01 p.m. until 4:10 p.m.)

21 CHAIR BRICKEY: Everybody, take your
22 conversation outside or sit down and be quiet.

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1 MR. RIDDLE: In other words, shut-up.

2 MS. BURTON: If everybody has their
3 petitions out it makes it easier.

4 MS. BURTON: Yes.

5 MR. HARPER: So that you can look at the
6 table in your petition. Cellulose, the processing
7 committee looked at -- and I don't -- cellulose is not
8 listed presently on the 605. It's not
9 presently there. So this is a new material.

10 There are a number of different issues.
11 There are a number of different uses of cellulose.
12 One of them is for regenerative casings. And what
13 regenerative casings are for -- say skinless hot dogs.
14 It's what you put the hot dogs into when you're
15 processing the hot dogs.

16 Then the skin comes off. Then the skin
17 comes off and it's not -- you know -- the consumer
18 does not get the skin. They just get the hot dog
19 that's been made inside.

20 Another use of cellulose is in powdered
21 form, and this is used as a filtration aid in, say,
22 juice processing in combination with diatomaceous

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1 earth, so that the diatomaceous earth does not go into
2 the -- end up in the final product.

3 It helps keep the diatomaceous earth from
4 going in there. And it's also used as an anti-caking
5 agent in, say, shredded cheeses and that's mostly the
6 application, I think, in shredded cheeses. And it's
7 also used -- microcrystalline cellulose, which has a
8 very specific kind of -- well, a very -- another
9 specific kind of cellulose is used as a thickener in
10 food products.

11 So the processing committee makes the
12 following recommendation. And first of all, I want to
13 make sure people understand my -- on the regenerated
14 casing there are other materials that get applied to
15 the cellulose, such as -- well, something that would
16 be on the list that would be applied as a lubricant in
17 this process would be, say, glycerol, because that's
18 already on the list.

19 But there are things that are not on the
20 list that are applied, but we aren't actually
21 considering the whole -- we're not approving
22 regenerated casing. We're approving the cellulose to

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1 be used in the regenerated casings.

2 And so you've got all these other things
3 that go in there that have other -- that have to use
4 -- take materials off the list and use them instead,
5 such as -- you know -- a propylene glycol, other
6 things like that, to make them -- propylene glycol, I
7 think, or some other materials like that.

8 So the committee recommends the
9 following, and this was a six to zero vote in
10 recommendation. And correct me if anyone --

11 MR. RIDDLE: Well, I think it actually
12 was five, zero. George.

13 MR. HARPER: Do I have six?

14 MR. SIEMON: I didn't --

15 MS. BURTON: Oh, I'm sorry. I couldn't
16 -- I had to abstain for COI.

17 MR. HARPER: Oh, that's right. I'm
18 sorry.

19 MR. RIDDLE: Of the cellulose. That's
20 right.

21 MS. BURTON: Yes.

22 MR. SIEMON: I appreciate it, too. I

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1 failed, too, and that was --

2 MR. HARPER: Four, zero, with two COIs.

3 MR. SIEMON: Right.

4 MR. HARPER: Four, zero, two COIs. Okay.

5 That is true. Okay. I'm sorry. Here's the -- so
6 the approval is: "Cellulose for use in regenerative
7 casings as an anti-caking agent (non-chlorine
8 bleached) and filtering aid."

9 I don't know if you say "only" after
10 that, or if you need to, or if you have to say "only"
11 to --

12 MR. SIEMON: Say that again. Read that
13 again.

14 MR. HARPER: "For use in regenerative
15 casings as an anti-caking agent (non-chlorine
16 bleached)."

17 MR. SIEMON: So non-chlorine is only for
18 the anti-caking agent?

19 MR. HARPER: Anti-caking agent, not for
20 the other two uses?

21 MR. SIEMON: Not for the other two uses?

22 MR. HARPER: Right, close parentheses,

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1 "and filtering aid." So we're only allowing those
2 specific uses of cellulose. And the reasoning behind
3 non-chlorine-bleached, anti-caking agent is being used
4 presently, it's our understanding, is being presently
5 used and is available.

6 So there were members that -- that was
7 sort of a friendly amendment to make this work on the
8 -- as a recommendation. There are -- I just want to
9 go through -- there were a number of suggestions in
10 the review about alternatives to cellulose, such as
11 rice flour and some other things, that actually have
12 -- in doing some checking around, have been tried out
13 and were not successful, actually were not successful
14 or were only successful with cellulose actually added
15 to it in combination.

16 There was another suggestion of a natural
17 fermented cellulose -- a naturally fermented cellulose
18 that's available, and that naturally fermented
19 cellulose is extremely expensive and available in
20 small quantities such as you'd use for a thickener,
21 but not for some -- like a cellulose for large-scale
22 uses such as hot dog on casings, because it's -- you

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1 know -- it's like got special -- it's used in
2 pharmaceuticals as a very specialty type of cellulose.

3 And so the -- we felt like those
4 alternatives were not available. They were not
5 effectively available at this time to use in the
6 applications that would be within the organic
7 industry. So that's the recommendation. Any
8 discussion?

9 MS. KOENIG: I just had a question. Were
10 those via letter or was that internal communication,
11 when you get that information?

12 MR. HARPER: Well, in this case we got
13 the -- in this case the reviewers came to the
14 processing committee, and the processing committee in
15 this case was mostly me, had to do the calling around
16 to find out -- to get the information.

17 Well, we also sent in requests for more
18 information from OMRI. They provided some more
19 information to us, as well as calling people to find
20 out and actually talking to one of the reviewers that
21 had suggested this, to find out if this really was a
22 viable alternative.

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1 And what we found out was no, it's not.
2 These are not really viable alternatives, or they've
3 been already tried out and they were not effective.

4 MS. BURTON: And Rosie, as one of the
5 petitioners, I actually checked with our suppliers to
6 see, one of the options was cotton linters for use as
7 powdered -- in the powdered cellulose, and that's not
8 commercially available right now.

9 And then I also spent about three hours
10 on the Internet searching to see if I could even find
11 anything with cotton linters, and there was nothing
12 available. So --

13 MS. KOENIG: Yes. I just want to make a
14 suggestion in terms of the process when it comes to
15 -- especially -- because I think some of the
16 information that's had reviews and was discussed in a
17 lot of cases, the technical information is fine and
18 we're going to base some of our -- certainly our
19 judgment on the technical and scientific information
20 that's provided.

21 But you know, in terms of the industry
22 information it seems like people on the committee may

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1 have more contacts or more familiarity. And the same
2 with growers. They may have more familiarity with it
3 and different regions may have different.

4 Plus, with the price we're paying
5 reviewers, they're not going to make a million and one
6 phone calls to get this information. But if we get
7 that information, I think either viewing it in formal
8 comment or in letters is better than coming to the
9 committee and just saying, I've been calling around.

10 MR. HARPER: Well, I think that --

11 MS. BURTON: In this case we did -- like,
12 we questioned -- reviewer number three said that it
13 wasn't available and then Steve clarified that with
14 OMRI, and then we did say yes, we believe that was the
15 review. So we did go back to OMRI and that is in an
16 e-mail.

17 MR. RIDDLE: I understand your --

18 MS. KOENIG: You did fine. You did fine.

19 But what I was just saying, in terms of the process
20 --

21 MS. BURTON: Sure.

22 MS. KOENIG: -- in terms of process I

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1 think that that has to be done, but when we present
2 things as a committee that's the first thing that we
3 need to say. These are the -- you know -- the TAP
4 review, blah, blah, blah. These are the things we
5 found efficient. We called OMRI just so it's on the
6 record.

7 MS. BURTON: Okay.

8 MR. HARPER: Okay.

9 MS. KOENIG: And it just doesn't sound
10 like Steve picked up the phone and called his buddy
11 and he said he used --

12 MR. HARPER: I think that's valid.

13 MR. SIEMON: And I agree, and then if you
14 call people in the industry, to me, asking them to
15 write a letter clarifying what they just told you is
16 really valuable.

17 MS. BURTON: Well, I think -- and again,
18 not to delay this, but part of the problem is having
19 one week to do this in, and 10 materials.

20 MR. HARPER: Right.

21 MS. BURTON: Now that we've extended that
22 time line I would expect that from the committees, to

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1 have that information.

2 MR. HARPER: I think that is a very good
3 point.

4 MR. SIEMON: I see you used the word
5 "anti-caking agent." Is that what would be in the TAP
6 review in the powders? Is that one and the same thing
7 or is that --

8 AUDIENCE MEMBER: That's a use of the
9 powder.

10 MR. SIEMON: That's a use of the powder,
11 just one use of the powder.

12 MR. HARPER: Right.

13 MR. SIEMON: Well, has it got -- so
14 you're not suggesting that a microcrystalline be
15 allowed.

16 MS. BURTON: Probably should have let him
17 finish, but Jim had a comment and then --

18 MR. SIEMON: Okay.

19 MR. RIDDLE: I had a motion.

20 MS. BURTON: Oh. Wow.

21 MR. RIDDLE: Did you answer George?

22 MS. BURTON: Steve hasn't finished his

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1 presentation.

2 MR. HARPER: Well, I mean, the committee
3 does not feel like microcrystalline cellulose is
4 necessary at all in MCC. Now, whether that can be
5 construed, I can't -- technically, whether allowing
6 say an anti-caking agent and somebody using
7 microcrystalline cellulose, and I'm not sure if they
8 would do that or not.

9 It's not typically used as an anti-caking
10 agent. They use it in very small quantities as a
11 thickener, and it'd be a very expensive way of using
12 microcrystalline cellulose when the other material's
13 available.

14 But it's not to say that somebody
15 couldn't, you know, sneak around and do that. I don't
16 know.

17 MS. BURTON: So do you just want to read
18 what your recommendation was for the powdered
19 cellulose?

20 MR. HARPER: Well, I believe the way we
21 left the committee was, just cellulose, period.

22 MS. BURTON: Cellulose.

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1 MR. HARPER: And not powdered cellulose.
2 I suppose we could, you know, change that to powdered
3 cellulose.

4 MS. BURTON: Well, can you re-read it,
5 because I was confused whether or not it was really
6 taking into consideration the casing. So if you would
7 just read it again for me, please.

8 MR. HARPER: "Cellulose: for use in
9 regenerative casings, as an anti-caking agent (non-
10 chlorine bleached) and filtering aid."

11 MR. RIDDLE: Yes. And I would like to
12 move that it be approved with that annotation.

13 MR. CARTER: I second it.

14 MS. CAUGHLIN: Second.

15 MS. BURTON: Okay.

16 MR. KING: I just want to make the point
17 that most or a lot of the material here that MCC's
18 typically bleached, right, Steve? So by saying it
19 we're sort of covering his question.

20 MR. HARPER: Most definitely, yes.

21 MR. KING: Right. Okay. Just so you
22 -- I understand.

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1 MS. BURTON: And the motion was not to
2 include MCC.

3 MR. SIEMON: But the non-bleaching
4 discounts it anyway.

5 MS. BURTON: Okay. So we have a first
6 and a second.

7 AUDIENCE MEMBER: Do you want to clarify
8 what section of the list you're adding it to, 605 or
9 606?

10 MR. RIDDLE: 605 is --

11 MR. HARPER: Well, we have to vote on
12 whether it's synthetic or not.

13 MS. BURTON: Okay. So we're ready to
14 vote whether cellulose is a synthetic or natural.

15 MR. MATHEWS: Owusu.

16 MR. BANDELE: Synthetic.

17 MR. MATHEWS: Carolyn.

18 CHAIR BRICKEY: Synthetic.

19 MR. MATHEWS: Kim.

20 MS. BURTON: Conflict.

21 MR. MATHEWS: Dave.

22 MR. CARTER: Synthetic.

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1 MR. MATHEWS: Goldie.
2 MS. CAUGHLIN: Synthetic.
3 MR. MATHEWS: Becky.
4 MS. GOLDBURG: Synthetic.
5 MR. MATHEWS: Steve.
6 MR. HARPER: Synthetic.
7 MR. MATHEWS: Mark.
8 MR. KING: Synthetic.
9 MR. MATHEWS: Rosie.
10 MS. KOENIG: Synthetic.
11 MR. MATHEWS: Willie.
12 MR. LOCKERETZ: Synthetic.
13 MR. MATHEWS: Jim.
14 MR. RIDDLE: Synthetic.
15 MR. MATHEWS: Eric.
16 MR. SIDEMAN: Synthetic.
17 MR. MATHEWS: George.
18 MR. SIEMON: Conflict.
19 MR. MATHEWS: Bill.
20 MR. WELSH: Synthetic.
21 MR. MATHEWS: Twelve synthetic, two C of
22 I.

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1 MS. BURTON: Okay. We have a motion on
2 the floor, first and second, further discussion.

3 MR. RIDDLE: Yes. Just a little comment
4 on it. I was uncomfortable adding this as an anti-
5 caking agent for use in cheese, and part of my
6 position was, you know, you give a child a cheese
7 grater and they'll have grated cheese for life.

8 If you give them a bag of grated cheese
9 and only have it for a day. You know, is grated
10 cheese essential, is just part of my bias, I guess.
11 But you know, I recognize that there is a market and
12 there are people who actually buy this product.

13 But the thing that did help me is hearing
14 that the non-chlorine bleach source is being used. It
15 is commercially available, and the fact that this food
16 ingredient, which is used between one and two percent
17 in the product is labeled as such.

18 So when a person buys this shredded
19 cheese they know, if they read the label, that they
20 are eating sawdust. So that's their choice.

21 MS. BURTON: Further discussion?

22 MR. BANDELE: Just a clarification.

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1 Maybe somebody can explain. It said that the -- is
2 derived from the wood pulp, and I was just wondering,
3 is that wood pulp preexisting -- going into a food
4 that it would be in some of these other processes as
5 far as --

6 MR. SIEMON: Well, it's food grade.

7 MR. HARPER: It's food grade.

8 MS. BURTON: Okay. Is somebody answering
9 Owusu's question? Steve?

10 MR. HARPER: Emily.

11 AUDIENCE MEMBER: Yes, -- paper mills, or
12 the lumber -- I say they make it into a pulp and then
13 they put it out to -- dry it out and roll it up in
14 these big rollers and they ship it off to the next
15 processor who purifies it further. It can be chlorine
16 and it can be -- things like that. I wasn't too aware
17 of the --

18 MR. HARPER: Hydrogen -- they de-lignify
19 it. They -- and there's a number of processes to take
20 out lignons and a number of other -- it's not sawdust.
21 I mean, it is --

22 MR. RIDDLE: I'm sorry.

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1 MR. HARPER: It's more highly refined
2 than sawdust.

3 MS. BURTON: Okay.

4 MR. MATHEWS: Kathryn has a tendency to
5 go out on the street corner to buy her lunch.
6 Kathryn, I hope you're picking up on all of this.

7 MS. BURTON: Further discussion? Okay.
8 We have -- ready for a vote?

9 MR. MATHEWS: All right. Owusu.

10 MR. BANDELE: Well, I vote to approve the
11 recommendation of having one --

12 MR. MATHEWS: Carolyn.

13 CHAIR BRICKEY: Approve.

14 MR. MATHEWS: Kim, C of I. Dave.

15 MR. CARTER: Approve.

16 MR. MATHEWS: Goldie.

17 MS. CAUGHLIN: Approved as annotated.

18 MR. MATHEWS: Becky.

19 MS. GOLDBURG: Abstain.

20 MR. MATHEWS: Steve.

21 MR. HARPER: Approve as annotated.

22 MR. MATHEWS: Mark.

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1 MR. KING: Approve.

2 MR. MATHEWS: Rosie.

3 MS. KOENIG: Approve.

4 MR. MATHEWS: Willie.

5 MR. LOCKERETZ: Abstain.

6 MR. MATHEWS: Jim.

7 MR. RIDDLE: Approve.

8 MR. MATHEWS: Eric.

9 MR. SIDEMAN: Approve with annotation.

10 MR. MATHEWS: George, C of I.

11 MR. SIEMON: I have a conflict.

12 MR. MATHEWS: Bill.

13 MR. WELSH: Approve.

14 MS. BURTON: Okay. Our last processing

15 material --

16 MR. MATHEWS: Okay.

17 MS. BURTON: I'm sorry.

18 MR. MATHEWS: That one passes, and I

19 notice that Dennis isn't here. So we won't have

20 anything in the Rule -- or in the letter about the

21 Board approving sawdust as --

22 (Laughter)

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1 MS. BURTON: Okay. Our last processing
2 material is glycerol mono-oleate.

3 MR. HARPER: Okay. Glycerol mono-oleate,
4 put this into context. Within the processing industry
5 you have many, many different kinds of processes, lots
6 of different places for agitation of different
7 liquids, liquids most specifically, so that you have
8 foam problems -- there are foaming issues in a number
9 of different situations.

10 A lot of cases you can take care of this
11 with mechanical means, and in fact, most of them try
12 to do this, but there are some applications -- and
13 some industries, like soy milk where because of the
14 nature of soy milk, the protein, it's very difficult
15 to control foaming.

16 So there are some needs for foaming
17 agents -- anti-foaming agents; excuse me. When
18 glycerol mono-oleate was then petitioned to be looked
19 at, there was confusion over whether this was a
20 natural or a synthetic. And so it's been used and
21 approved by a number of certifiers.

22 It's been approved in the industry and by

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1 a number of certifiers. There's a couple of things
2 about glycerol mono-oleate about the review. First of
3 all, there are a number of alternatives that were
4 suggested, and then secondly -- well, first, there
5 were a number of alternatives suggested and we're
6 going to recommend that we defer this material for the
7 reason that the petitioners would like to have a
8 chance to try out some of the alternatives that were
9 suggested in there, because there's clearly a need in
10 the industry, and so many people are using this, that
11 we have to have a clarification on whether those
12 alternatives work.

13 And another reason for deferring this is
14 that of the few reviewers the whole committee felt
15 that one of the reviewers was a totally inadequate
16 review, and that we felt like it sort of was an
17 ineffective review because of the fact that one of the
18 reviewers was not an adequate review.

19 And so we are deferring this material
20 until further -- for further action.

21 MS. BURTON: Rosie?

22 MS. KOENIG: You know, hearing of the

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1 importance to the industry and the fact that
2 processors are going to try alternatives, if they
3 could -- you know -- if we're going to defer this
4 based on their studies or such, I would like to see
5 this information presented in a quorum, you know, so
6 it's similar to the -- studies and done in a
7 scientific manner so we can really get some
8 information --

9 MS. BURTON: Yes, Willie was next.

10 MR. LOCKERETZ: Well, a minor point
11 concerning reviews, this review and the other review,
12 all future reviewers should be told that there is no
13 difference between the 95 percent organic and the made
14 with organics.

15 They change their recommendation and
16 there's no provision for having different
17 recommendations; it makes it confusing and they should
18 be so informed.

19 MS. BURTON: Sure.

20 AUDIENCE MEMBER: You mean, so, in other
21 words you don't see any difference in the criteria
22 between --

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1 MR. LOCKERETZ: No. The list -- the
2 attachment of the list --

3 MS. BURTON: The materials committee did
4 -- we had two meetings here, one today and one
5 yesterday, and we did address that issue for
6 discussion for further follow-up, especially in light
7 of, you know, processing aids and whether or not they
8 would even fall under this "made with" label.

9 So that -- thank you for bringing that
10 up. And the Materials Committee, I really did
11 identify that as one of the concerns.

12 MS. KOENIG: That really does --

13 MR. MATHEWS: But that's not 100 percent
14 true, because the list does have one substance on it
15 that says that it's for, "made with only," and that's
16 sulfur dioxide in wine. So you can be making the
17 distinction; there's four of them on there?

18 MR. RIDDLE: There's four.

19 MR. MATHEWS: Four. Yes, and so you can
20 approve for "made with," and reject for "organic."

21 MS. BURTON: Yes. Okay.

22 MR. HARPER: So we're deferring action on

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1 that. That's the recommendation.

2 MR. SIEMON: I'm just a little concerned.

3 The person who petitioned this, when they said
4 they're willing to defer so they can try other things,
5 did they realize that that means now that it won't be
6 in the Rule next October?

7 MS. BURTON: There was a number of us who
8 petitioned this material together and we all agreed
9 that we do indeed want to try the alternatives that
10 are listed on the national list currently, and we feel
11 like we can do those.

12 MR. RIDDLE: I move that we defer the
13 material and to review the material.

14 MS. BURTON: All right.

15 MR. HARPER: Well, if there's no motion,
16 we don't have to do anything.

17 MS. BURTON: No.

18 MR. RIDDLE: Well, it officially puts it
19 in the record.

20 MS. BURTON: Okay. Now, are we moving on
21 to livestock and then back to the crops material?
22 Livestock, do you have a claim?

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1 MS. KOENIG: Does Connie want these
2 papers before the --

3 MS. BURTON: Why don't you just save it
4 until the end and she'll collect them both.

5 MS. CAUGHLIN: Do you want to pass these?

6 MS. BURTON: Hold all your voting
7 materials until the end.

8 MR. HARPER: Can I bring up one minor
9 thing that got missed this morning? I think it was
10 this morning, or was it yesterday. I can't remember
11 anymore. We've had -- there was one other issue that
12 the processing committee actually dealt with that I
13 forgot to discuss.

14 And that was -- there was a technical --
15 this is not a material, but I want to bring it up
16 today because you need to think about it for tomorrow.

17 There was a technical correction that was suggested
18 at the last meeting that had to do with changing
19 205.302 in calculating the percentage of organically
20 produced ingredients.

21 The technical correction was to change
22 the way you calculate from dividing the total net

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1 weight by the finished -- total net weight of the
2 combined organic ingredients by the finished product
3 weight to determine the amount -- the percentage of
4 organic, and the -- that the correction that was
5 suggested was to divide the total net weight, divide
6 the total weight of all ingredients, because there are
7 processes where you can actually end up with a higher
8 percentage of organic because of, say, of evaporating
9 off the moisture that was in, say, a liquid -- say
10 apple juice where you evaporate all the apple juice
11 off and you can come up with a higher percentage of
12 organic than was actually put in the original formula.

13 And so that's a correct -- and so
14 -- cases in 205.302 where it says, "finished product,"
15 would be changed to "all ingredients." And the
16 processing committee is fully in support of that. And
17 so that --

18 MR. RIDDLE: That was deferred or
19 referred to processing committee in LaCrosse, and so
20 --

21 MR. HARPER: Right.

22 MR. RIDDLE: -- it's going to come up for

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1 a final vote tomorrow.

2 MR. HARPER: Full final vote for
3 tomorrow.

4 MS. BURTON: Okay.

5 MR. HARPER: It's 205.302, to change
6 "finished product" to "all ingredients."

7 MS. BURTON: Finished? Okay. Eric.

8 MR. SIDEMAN: Okay. Move onto the simple
9 one now. Those in the audience received a handout
10 from me, and in that handout that you got from me were
11 the livestock issues that we're going to consider.
12 One of them is entitled, The Use of Synthetic
13 Methionine in Organic Poultry Production.

14 This is a really difficult and complex
15 issue for the livestock committee because we could see
16 reasoning on both sides of the issue very clearly.
17 And that's how -- when I wrote this summary of how the
18 livestock committee went through its considerations, I
19 set this in sort of a fact sheet format and made a
20 list of reasons we felt were strong to approve the
21 material, and then a list of reasons that we thought
22 were strong to not approve the material.

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1 And I don't think that I need to read
2 those. Everyone has had them in their hand for days
3 now, and I guess I can say what the livestock
4 committee conclusion was and then we can have
5 discussion. In the end, the conclusion of the
6 livestock committee was, and this is unanimous, that
7 methionine should be listed on the national list, but
8 with the stipulation that it be removed after three
9 years, same date as we did for that other one.

10 MR. HARPER: That's 2005, October 21,
11 2005.

12 MR. RIDDLE: Yes, but you say three years
13 from the implementation date, October 2005.

14 MR. HARPER: Right.

15 MR. SIDEMAN: And that would be the only
16 way the livestock committee was willing to consider
17 that material, was with it being removed after three
18 years. And then the livestock committee went on, and
19 this was a split decision, and I think it was three to
20 two, although I can't remember.

21 Was it three to two? I think it was.
22 The majority of the people on the committee felt that

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1 during that three-year period conventional
2 agricultural products that are alternative sources for
3 methionine be permitted on an experimental basis
4 trying to reformulate feed rations and developing feed
5 rations that will probably not substitute for the
6 amount to gain folks are getting now with synthetic
7 methionine.

8 MR. HARPER: I'm sorry. I missed that.
9 Can you repeat that again?

10 MR. SIDEMAN: Sure. The majority of the
11 livestock committee felt that during that three-year
12 periods that conventional agricultural products can be
13 used, up to five percent of the total feed on an
14 experimental basis trying to develop alternative
15 rations that supply methionine to the chickens.

16 MS. KOENIG: Eric.

17 MR. SIDEMAN: Yes.

18 MS. KOENIG: Does anyone have to go for a
19 research permit or get special exemption for that,
20 because there is -- in the Rule -- if you want to do
21 experimentation you --

22 MR. SIDEMAN: There is an allowance in

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1 the Rule --

2 MR. SIDEMAN: Well, is there some way we
3 could do it with a blanket, rather than individual
4 producers having to apply for it.

5 MS. GOLDBURG: Well, there are --

6 AUDIENCE MEMBER: What kind of research
7 do they want to do?

8 MS. GOLDBURG: There are substitutes.
9 It's just that they're not -- many of them aren't
10 available.

11 CHAIR BRICKEY: Right. What I'm saying,
12 for you to get a permit you have to specify what you
13 want to do.

14 MS. KOENIG: Exactly. And it has to be
15 done scientifically rather than the people just using
16 it as a way to get five percent of their feed
17 accomplished conventionally, for methionine so I agree
18 with experimentation so this applies to that USDA
19 research exemption, and let it be handled that way.

20 MS. CAUGHLIN: With a precise plan, a
21 precise --

22 MS. KOENIG: Yes.

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1 MS. BURTON: Could that be a -- that
2 would be a recommendation from the livestock committee
3 to the NOP.

4 MR. RIDDLE: To link it to that section.

5 MR. SIEMON: We don't even have to do
6 anything.

7 MS. KOENIG: I don't think you need to
8 recommend it. I think it's --

9 CHAIR BRICKEY: It's required --

10 MS. KOENIG: I mean, I think we need to
11 make people aware of it, maybe on the web site, as
12 frequently asked questions, you know, what if I have
13 -- I need to substitute methionine or any of these,
14 you might say, there is a research --

15 MR. HARPER: And there's certainly an
16 awareness out there, I think, of what's going on in
17 the project.

18 MS. BURTON: Okay.

19 MR. MATHEWS: Okay. In 290, temporary
20 variances, (a)(3): "Practices used for the purpose of
21 conducting research of trials of techniques, varieties
22 or ingredients use in organic production or handling."

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1 So that's where it would have to come under.

2 I would think that what you would want to
3 do is to make a recommendation to us as to what that
4 variance would be and when it would be allowed. So I
5 mean, you've already talked a little bit about the
6 five percent level.

7 And so we would be looking to you for
8 guidance on how we would apply the variance to allow
9 the research for replacing methionine.

10 MS. KOENIG: I would personally rather
11 see, you know, not even specifying five percent. I
12 mean, if the livestock committee could maybe give you
13 feedback on it. But I would say in general on all
14 these variances -- I don't want to discuss it now.

15 But I think some research component, I
16 think you need to have some way, some committee or
17 something that's going to -- to look at those
18 ventures.

19 MS. BURTON: Okay. Well, that's
20 recognized and certainly the livestock committee can
21 take that back with them and discuss it, get Rosie's
22 input.

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1 MR. SIDEMAN: On how to set up language
2 so you commit people to new trials.

3 MS. BURTON: Right.

4 MR. SIDEMAN: So we need that for the
5 annotation.

6 MR. HARPER: No.

7 MS. BURTON: I would not think you'd put
8 that in the annotation.

9 MR. HARPER: No.

10 ALL MEMBERS: No.

11 MS. BURTON: Okay. So does the committee
12 have a recommendation?

13 MR. SIDEMAN: The recommendation would be
14 that methionine be listed with an annotation that it
15 be removed from the list in three years.

16 MS. BURTON: Second it?

17 MR. RIDDLE: Second.

18 MR. WELSH: I'd like to make a friendly
19 amendment that that, to in effect that instead of
20 using the three years, at the end of the research to
21 determine whether it's feasible and what -- otherwise,
22 we could get to the end of the three years and have

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1 nothing more to go on than what we have now, or find
2 out there is nothing else.

3 MS. BURTON: Can we review it in three
4 years?

5 MR. SIDEMAN: I really want to stress
6 that that was not the -- the majority of the livestock
7 committee did not feel that way. The majority of the
8 livestock committee felt that we're not going to be
9 able to substitute the synthetic methionine, but we
10 recognize that synthetic methionine should not be part
11 of an organic system and that it be removed in three
12 years, and not reconsidered, and that whether a
13 substitute that reaches 100 percent of what methionine
14 can do or not is developed, methionine's gone and
15 organic producers will have to look --

16 CHAIR BRICKEY: You can't preclude
17 consideration of it.

18 MS. BURTON: Yes.

19 MR. SIDEMAN: No, but we get it in the
20 record that that's what the livestock committee is
21 recommending now.

22 MR. MATHEWS: So noted.

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1 MS. BURTON: Okay.

2 CHAIR BRICKEY: So noted.

3 MS. BURTON: We have a motion, a second.

4 My only comment would be if we are going to do the
5 same annotation that we did on the processing
6 material, we make it consistent and put that date, and
7 that --

8 MR. WELSH: Right. That was going to be
9 my recommendation.

10 MS. BURTON: So as long as we can make
11 that a friendly amendment, I recommend that. Okay.

12 MR. SIDEMAN: Just let a date certain.

13 MR. HARPER: October 21st, 2005. Bill.

14 MR. WELSH: I just want to remind the
15 committee that we're putting the whole poultry
16 industry in jeopardy to the fact that the USDA may
17 decide that they will not allow that three years, and
18 then it throws the whole thing out.

19 MR. SIEMON: Well, I wanted to discuss
20 that, also, that issue about that we're not allowed to
21 have the sunset that automatically means methionine is
22 prohibited.

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1 MR. HARPER: That's right.

2 MR. SIEMON: I can't accept that in this
3 case. I think that makes a whole different decision
4 for the Board because of the implications to the
5 industry. So I think we should separate it out from
6 what we did earlier.

7 MS. BURTON: Rosie.

8 MS. KOENIG: The other thing that -- and
9 again, I'm not sure this is the time for discussion --
10 but if it is prohibited I think it needs to be looked
11 at as a medical application at some point because --
12 in terms of -- just like aspirin, you know, if it's
13 prohibited and then there's -- in some operations
14 there's deficiencies in chickens or suffering from
15 that aspirin -- and this is what I'm saying.

16 I'm not sure and I know it's too late to
17 formulate it, but I think the livestock committee
18 needs to take that as --

19 MR. SIEMON: Therapeutic.

20 MS. KOENIG: -- a therapeutic use.

21 MR. SIEMON: That would be abused,
22 though.

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1 MS. BURTON: Okay. Jim.

2 MR. RIDDLE: Yes. I hear what George is
3 saying here and I think that it stresses the
4 importance of us doing a determination as soon as
5 possible on whether or not this sunset will be
6 allowed, and if it's not then we in a very timely
7 manner need to revisit this annotation.

8 MS. BURTON: Yes.

9 MR. SIEMON: I'd like to enter that as a
10 friendly amendment.

11 MS. BURTON: Based on that, the Board
12 could make a recommendation if it does not go through
13 with that annotation that it either be removed from
14 the list or come back to the committee or the national
15 board.

16 MR. SIEMON: You said it was up to us. I
17 want to make sure it's in this one. It will come back
18 for a re-vote the annotation's not approved.

19 MR. MATHEWS: So essentially on the
20 ammonium hydroxide, if the attorneys say no then
21 you're saying don't put it on the list.

22 MR. SIEMON: That's what the --

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1 MR. MATHEWS: For this one you're saying
2 if the OGC says no, then you want us to come back to
3 you so that you can do whatever you need --

4 MR. HARPER: Absolutely.

5 MR. SIEMON: Okay.

6 MS. BURTON: Then you revisit it.

7 MR. MATHEWS: Revisit?

8 MR. RIDDLE: Yes.

9 MS. BURTON: Okay. Further discussion?

10 MR. BANDELE: Well, I just want -- the
11 same thing would apply if the situation is approved
12 that we discussed yesterday in terms of once the Board
13 approves something. So even if it's not acting on it,
14 it's still a possibility it could go into effect, that
15 mechanism until action is taken by the USDA.

16 MS. BURTON: I didn't follow you.

17 MR. BANDELE: Yesterday we were talking
18 about like once the Board approves that there's a
19 possibility that we could derive something, that that
20 could be in effect --

21 MS. BURTON: Oh, yes. Yes.

22 MR. BANDELE: -- when the Rule comes into

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1 play.

2 MS. BURTON: Yes, materials committee was
3 dealing --

4 MR. BANDELE: Yes.

5 MS. BURTON: With materials that have
6 been approved by the Board that are not on the
7 national list yet because of the regulatory process.
8 Okay. Bill.

9 MR. WELSH: I can't imagine how a Board
10 can make a decision that would take a -- a decision
11 down the road from a future Board, I can't imagine
12 USDA --

13 MS. BURTON: No, we're not doing that.

14 MR. WELSH: We are.

15 MR. HARPER: I think we understand that.

16 MS. BURTON: Dave.

17 MR. CARTER: Well, I think any future
18 Board can come in and change this decision. I think
19 the reason that the committee voted to put this in
20 there was a feeling that there are the potential for
21 some alternative technologies or whatever to be able
22 to address this, and to be able to get some votes

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1 saying that if you're going to go through and do the
2 research and development to come up with this, there's
3 a time frame at which you're going to have a market
4 opportunity for it.

5 MR. SIEMON: You're sending a clear
6 message.

7 MR. CARTER: Sending a clear message that
8 we're to drive some market development.

9 MR. WELSH: I'm not disagreeing with that
10 idea at all. Matter of fact, I'm all in favor of
11 that, but I don't want to get into a situation like we
12 talked about before where you and Dave had said
13 because of that part of that annotation we're going to
14 disallow it.

15 MS. BURTON: No.

16 MR. WELSH: And therefore, we
17 automatically approve the methionine, or disapprove
18 it, either one.

19 MS. BURTON: The direction --

20 MR. WELSH: It won't be on the list if
21 they disallow it because of the annotation, and that's
22 what my concern is. That throws our whole research,

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1 everything out. It throws it all away.

2 MS. BURTON: The direction from the Board
3 to Rick and NOP was that this annotation is not
4 allowed to come back to the Board for a decision.

5 MR. SIEMON: But we need to vote on that
6 to get --

7 MR. HARPER: Right.

8 MS. BURTON: Correct. That's the
9 recommendation.

10 CHAIR BRICKEY: We're talking about a
11 difference of two years in time here. You know, I'm
12 not in favor of this material anymore than some of the
13 others that were on the Board, but it doesn't -- it's
14 not going to keep me up nights to think it's used two
15 more years beyond this three-year phase-out.

16 There may be opportunities and situations
17 where we really need to use a sunset, and I do want to
18 get some clarification on that from OGC. I'm all in
19 favor of using sunsets to encourage innovation.

20 But I don't know why we have to, you
21 know, kind of rock this thing over the edge of the
22 cliff and see what -- no, let me finish. I'm going to

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1 have my say on this. We're not going to rock this
2 thing on the cliff for awhile and then see if OGC will
3 come back quickly, and they probably won't.

4 They don't have to and they probably
5 won't. And then we'll come back and consider this
6 with the Board again. I won't be here, thank
7 goodness. But I just think it's kind of silly, folks.
8 I really do.

9 I think if we were talking about a long
10 period of time, you know, where you really thought you
11 were going to encourage innovation, that would be
12 different. This is two years. I really don't think
13 it's that compelling.

14 MR. LOCKERETZ: There's more to it than
15 the two years difference. There's more -- it's not
16 just a question of two years. With the sunset we're
17 saying, well, we may change our minds in five years.
18 It's an open question.

19 This will say we want it out after two
20 years. It's not that we'll revisit it, but we're
21 saying we're allowing it only because we're allowing
22 it for this time and that time and at the end our

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1 position is it should be terminated, not it should be
2 revisited.

3 And that's what's necessary to stimulate
4 taking seriously the development of alternatives,
5 rather than flipping a coin at the end of five years.

6 CHAIR BRICKEY: But you don't you're
7 going to get that opportunity. You're saying, we're
8 going to have to come back in a few months or a year
9 or whenever.

10 MR. LOCKERETZ: Well, but --

11 CHAIR BRICKEY: Let me finish.

12 MR. LOCKERETZ: Sorry.

13 CHAIR BRICKEY: Whatever OGC rules on
14 this, you're going to come back and say, well, now we
15 have to consider it all over again. That just doesn't
16 make sense to me.

17 MR. LOCKERETZ: I think we should
18 consider it all over again right now with a
19 contingency secondary vote, if the annotation is not
20 accepted do we favor it unannotated or do we oppose it
21 unannotated.

22 CHAIR BRICKEY: Two years is just not

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1 that much time --

2 MR. LOCKERETZ: No --

3 MS. BURTON: That's not the issue. Eric.

4 CHAIR BRICKEY: Procedurally, would that
5 be --

6 MS. BURTON: Eric was next.

7 MR. SIDEMAN: I wanted to say almost
8 exactly what Willie was saying. It's a very strong
9 message from the livestock committee majority that
10 this material does not fit the organic production
11 system, and that the only reason we're allowing is we
12 don't want to pull the rug out from underneath the
13 farmers.

14 And then our hope is to send that message
15 along. This is not a typical material that we're
16 hoping to continue and get re-reviewed in five years
17 and come back. We never want to see it again and
18 we're hoping that research success brings up some real
19 good alternatives that are going to be meeting 100
20 percent of the productivity you can get with
21 methionine.

22 But if it can't, so be it. Organic

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1 producers are just going to have to face less
2 productivity.

3 CHAIR BRICKEY: My hope would be that
4 there's a number of materials on this list when
5 they're revisited may not be approved because there's
6 alternatives now available that weren't available when
7 the Board really -- originally made that list. I
8 don't regard the five-year process as a rubber stamp.

9 MR. LOCKERETZ: No, but the difference is
10 we find this -- the majority find this substance
11 objectionable, not really that there's no alternative.
12 We don't want it, but we're saying we'll give you
13 three years to adapt to something else.

14 That's very different from saying we'll
15 revisit it in five years, but it's an open question.
16 It's not open in our minds. We reject this material.

17 MS. BURTON: Rosie.

18 MS. KOENIG: Yes. The only difference I
19 think, Carolyn, on your point, which I appreciate, but
20 we don't -- I mean, we can't predict the future in
21 five years as to how this body is going to control
22 that process of renewal.

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1 I mean, if they made just a slate, I
2 mean, then you just say any objections, and then
3 there's a slate of all the renewed substances that are
4 on that list. So I do think that this -- I agree with
5 Willie in this case it does send a clear message.

6 And not only does it send a clear
7 message, I mean, I guess because I'm a stickler for
8 incorporating -- trying to get research dollars into
9 these problems. If we don't like -- you know -- if
10 poultry growers can go to their, you know, state
11 governments or state extension service or even USDA
12 and say, this is off, we need alternatives, that's a
13 very strong message to send to universities and people
14 doing the research, versus it may or may not be on.

15 MS. BURTON: Steve, Eric, we have a
16 comment right there. Then we're going to wrap this up
17 because we have get moving.

18 MR. HARPER: I have a question on the
19 finding, because I -- to be honest with you, I haven't
20 read the review. The alternatives are potentially
21 nonagricultural -- I mean, right now it's commercial
22 availability.

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1 MS. BURTON: Commercial availability.

2 MR. SIDEMAN: The alternatives are
3 agricultural products.

4 MR. HARPER: The alternative are for
5 agricultural products but they're not available
6 organically, right?

7 MR. SIDEMAN: Some of them aren't and
8 some of them are.

9 MR. HARPER: Some of them aren't and some
10 of them are. Okay. So the alternatives are out
11 there. But what I'm saying is, there is an
12 alternative out there. It's just not -- the timing is
13 such that they're not available yet.

14 MR. SIDEMAN: Yes.

15 MR. HARPER: And my point on that is that
16 you have the same situation on the processing with the
17 steam for the boiler water additives. Yes, the
18 alternative is out there, but you know, you're not
19 willing to make the same exceptions for processors
20 -- I just have to make this statement -- because that
21 alternative is out there, but you're not willing to
22 allow it if we're not sunseting it.

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1 And so I don't see what the difference is
2 between these two issues, because there you've got the
3 same issue, the same expense and I don't understand
4 the difference.

5 MS. BURTON: Eric.

6 MR. SIDEMAN: The alternatives are out
7 there, but the problem that I see, anyway, and I think
8 the majority of the livestock committee agrees with
9 me, is that people over the years -- well, there's two
10 points.

11 People over the years have gotten used to
12 very high productivity of poultry, lots of eggs and
13 lots of meats. And they're making that out of a
14 synthetic powder that's being made in a factory, and
15 it's possible to do that.

16 And I consider it sort of space food,
17 taking a chemical and turning it into food, and it's
18 really not a tremendous change when they do that, by
19 the way.

20 CHAIR BRICKEY: Unconventional, you mean?

21 MR. SIDEMAN: Yes. And the problem that
22 we see is that although the alternatives are out there

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1 we have growers who are expecting this kind of
2 productivity, and they're just not going to be able to
3 get it when they use real food to feed their chickens.

4 MS. BURTON: Okay. We --

5 MR. SIDEMAN: The other problem is that
6 certifiers have allowed -- this is probably similar to
7 processing -- over the years certifiers have allowed
8 the use of methionine, many of them mistakenly so.

9 MS. BURTON: Okay. We have to cut this
10 off at some point. We've all had this issue for a
11 long, long, long, long time. So we have a motion on
12 the table. We have a second on the table. I think we
13 need to -- vote.

14 MR. SIEMON: Okay. The motion is?

15 MR. HARPER: What was the motion?

16 MS. BURTON: The motion was --

17 MR. MATHEWS: The motion is to approve
18 with an annotation that says: "Removal from the list
19 October 21st, 2005."

20 MR. SIEMON: Just one last comment,
21 because I want to clarify. I think this is the right
22 place to use a phase-out because there really is a

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1 clear message needed. Of anyplace I've ever seen,
2 this is one where there's so much resistance to it
3 that you really need -- and already, we've stimulated
4 a lot of university research and private efforts.

5 Just the discussion has stimulated a
6 whole world of research that wasn't going on before,
7 and I'm afraid if we didn't have that it would freeze
8 up and go backwards again. So I really support the
9 phase-out.

10 MS. BURTON: Okay. We need --

11 MR. SIEMON: Just to send that clear
12 message.

13 MS. BURTON: We need to vote on whether
14 it's a synthetic or a natural.

15 MR. MATHEWS: Okay. Owusu --

16 MR. BANDELE: Synthetic.

17 MS. BURTON: And if there's any
18 conflicts, please state them.

19 MR. MATHEWS: Carolyn.

20 CHAIR BRICKEY: Synthetic.

21 MR. HARPER: I mean, synthetic, I mean,
22 there's no conflict of interest?

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1 MS. BURTON: Well, if there are, you can
2 just state them when your turn comes around.

3 MR. HARPER: Any chicken producers using
4 methionone?

5 MR. SIEMON: And is that a conflict --

6 MR. WELSH: Not when it affects every
7 other poultry producer in Maine the same way it does
8 me.

9 MR. HARPER: Okay.

10 MR. WELSH: I don't see it.

11 MS. BURTON: We all know what a conflict
12 is and you have to state it if you feel like you have
13 a conflict when the vote comes around.

14 MR. WELSH: I'll ask the question. I
15 raise poultry. Is that a conflict of interest?

16 MS. CAUGHLIN: No.

17 MR. LOCKERETZ: You've made the --
18 methionine.

19 MR. MATHEWS: Then you made the
20 alternative.

21 MS. CAUGHLIN: You're not using
22 methionine.

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1 MR. MATHEWS: Okay. Let's go on.

2 MS. BURTON: We don't have to -- we did
3 have a discussion on conflicts.

4 CHAIR BRICKEY: That's not a conflict.

5 MR. WELSH: Madam Chairman, I asked for a
6 decision.

7 CHAIR BRICKEY: I don't see a conflict.
8 We did discuss this question back when we were looking
9 at the issue of whether somebody used the material as
10 a producer, and whether or not because that person or
11 persons used the material, we agreed that would not be
12 a direct financial benefit to you.

13 Although you do benefit from raising
14 chickens, the farmer who'd benefit here would be who
15 sold the chickens, not this product. You don't
16 benefit from the sale of it, you don't manufacture it,
17 you don't produce it, and you didn't petition it.
18 That's the position we've taken on conflict of
19 interest.

20 MR. RIDDLE: But a person is obligated to
21 state that kind of secondary level, which you've done.

22 CHAIR BRICKEY: And I am suggesting that

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1 I think --

2 MR. HARPER: That was the reason I
3 brought it up at that time.

4 MR. MATHEWS: Okay. Let me re-check
5 where we are so far. Owusu said synthetic. Carolyn
6 said synthetic. Kim.

7 MS. BURTON: Synthetic.

8 MR. MATHEWS: Dave.

9 MR. CARTER: Synthetic.

10 MR. MATHEWS: Goldie.

11 MS. CAUGHLIN: Synthetic.

12 MR. MATHEWS: Becky.

13 MS. GOLDBURG: Synthetic.

14 MR. MATHEWS: Steve.

15 MR. HARPER: Synthetic.

16 MR. MATHEWS: Mark.

17 MR. KING: Synthetic.

18 MR. MATHEWS: Rosie.

19 MS. KOENIG: Synthetic.

20 MR. MATHEWS: Willie.

21 MR. LOCKERETZ: Synthetic.

22 MR. MATHEWS: Jim.

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1 MR. RIDDLE: Synthetic.

2 MR. MATHEWS: Eric.

3 MR. SIDEMAN: Synthetic.

4 MR. MATHEWS: George.

5 MR. SIEMON: Synthetic.

6 MR. MATHEWS: Bill.

7 MR. WELSH: Synthetic.

8 MR. MATHEWS: Fourteen synthetics.

9 MS. BURTON: Okay. Ready to vote on this
10 material with the following annotation.

11 MR. MATHEWS: "Removal from the list
12 October 21st, 2005."

13 MS. BURTON: Okay.

14 MR. MATHEWS: And I also understand that
15 I'm supposed to bring it back to you if that's not
16 acceptable.

17 MS. BURTON: Thank you.

18 MR. SIEMON: Well, Eric, do you want that
19 to be a nonvote?

20 MR. SIDEMAN: So don't put that in there.
21 That's not an understanding.

22 MS. BURTON: It's not part of the

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1 annotation.

2 MR. MATHEWS: It's not part of the
3 annotation. It's just on my understanding. Owusu.

4 MR. BANDELE: Approve with the
5 annotation.

6 MR. MATHEWS: Carolyn.

7 CHAIR BRICKEY: Approved.

8 MR. MATHEWS: Kim.

9 MS. BURTON: Approve.

10 MR. MATHEWS: Dave.

11 MR. CARTER: Approve with annotation.

12 MR. MATHEWS: Goldie.

13 MS. CAUGHLIN: Approved with annotation.

14 MR. MATHEWS: Becky.

15 MS. GOLDBURG: Approve with annotation.

16 MR. MATHEWS: Steve.

17 MR. HARPER: Approve with annotation.

18 MR. MATHEWS: Mark.

19 MR. KING: Approve with annotation.

20 MR. MATHEWS: Rosie.

21 MS. KOENIG: Approve with the annotation.

22 MR. MATHEWS: Willie.

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1 MR. LOCKERETZ: Approve with annotation.

2 MR. MATHEWS: Jim.

3 MR. RIDDLE: Approve with annotation.

4 MR. MATHEWS: Eric.

5 MR. SIDEMAN: Approved with annotation.

6 MR. MATHEWS: George.

7 MR. SIEMON: Approve with annotation.

8 MR. MATHEWS: Bill.

9 MR. WELSH: Approve with annotation.

10 MR. MATHEWS: Fourteen approve.

11 MR. SIEMON: Okay. Do I need to make the
12 motion that if we can't do annotation that it comes
13 back to the Board for revisiting?

14 MR. RIDDLE: Or I'll make a motion that
15 it doesn't come back.

16 MR. SIEMON: But I made the motion first.

17 (Laughter)

18 CHAIR BRICKEY: Oh, boy. I'm going to be
19 here all night.

20 MR. LOCKERETZ: Why can't we have a vote
21 now on where we stand if the annotations --

22 MR. RIDDLE: Oh, no.

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1 MR. LOCKERETZ: To save time reopening it
2 and having it all discussed again, we discussed this.

3 MS. BURTON: Eric.

4 CHAIR BRICKEY: The Board can take this
5 whole -- if it chooses, when it meets again.

6 MR. SIDEMAN: That's right.

7 CHAIR BRICKEY: There's nothing to
8 prohibit that from happening.

9 MR. SIDEMAN: That's right, but it would
10 have to be repetitioned. Am I right?

11 MR. LOCKERETZ: No, it would not.

12 MR. SIDEMAN: If the -- then I'd like to
13 make a motion that it does not come back to us.

14 CHAIR BRICKEY: You can't do that. You
15 can't prohibit the committee from acting -- here.
16 You're going to be off the Board. It's not going to
17 happen that way.

18 MR. SIDEMAN: Well, the materials from
19 the processing committee, we did have that, but it's
20 not coming back.

21 MR. SIEMON: That's what you all did
22 earlier.

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1 CHAIR BRICKEY: That is the point of view
2 expressed by this Board. That does not prohibit the
3 committee from acting -- I mean -- the Board from
4 acting --

5 MR. SIEMON: Future Board can have
6 another point of view.

7 CHAIR BRICKEY: That's right. That's how
8 it is.

9 MR. SIEMON: Any time it wants.

10 MR. MATHEWS: The other thing to say, if
11 it's not okay, it's okay with us to go forward. This
12 one --

13 MR. SIDEMAN: No. The other one said
14 that it's okay -- that it's prohibited material.

15 MR. MATHEWS: Right.

16 MR. SIDEMAN: And that's what I want with
17 this one.

18 MR. HARPER: No, it's not an allowed
19 material.

20 MR. SIEMON: No.

21 MR. MATHEWS: You said --

22 MR. SIDEMAN: Yes, you're right.

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1 MR. MATHEWS: You said, if the annotation
2 is not okay according to the attorneys, just go
3 forward.

4 MR. SIDEMAN: Which one is that?

5 MR. MATHEWS: Oh, wait a minute. You
6 did. You said, terminate it.

7 MS. BURTON: Correct.

8 MR. SIDEMAN: That's right.

9 MR. HARPER: That's right. The same
10 thing that the processing committee --

11 MR. SIDEMAN: Okay. So does somebody
12 else want to make a motion, or should I?

13 MR. SIDEMAN: Yes. I'd like to make the
14 motion that without the sunset that this material
15 remain prohibited. Discussion?

16 MS. BURTON: Discussion. I don't think
17 we need to discuss it. Call for a vote.

18 MR. SIEMON: Is this going to be approved
19 or prohibit, or yes or no?

20 MR. SIDEMAN: It's a prohibited material
21 now, and I'd like it to stay prohibited unless we have
22 the annotation that allows the committee --

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1 MS. BURTON: Correct.

2 MR. SIEMON: So then are we --

3 MR. MATHEWS: I think it would be just a
4 simple yes or no to the motion.

5 MR. SIEMON: And a yes is it would then
6 become a prohibited material?

7 MS. BURTON: Correct.

8 MR. LOCKERETZ:

9 Yes, but don't we want to do it in the
10 same sense as we did the last one, that the motion is
11 if the amendment -- if the annotation's not allowed
12 the motion is to accept the petition, and then if you
13 don't like it, you vote against it.

14 That's the way we did it the previous
15 one. We're voting the petition. We're not voting --

16 MS. KOENIG: No petition.

17 MR. HARPER: There's no petition on it.

18 MS. BURTON: We are voting that if for
19 some reason NOP or OGC or whoever is going to look at
20 this annotation and they do not approve the
21 annotation, that this material become a prohibited
22 material. That's the --

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1 MR. SIDEMAN: It is a prohibited
2 material.

3 MS. BURTON: It is a prohibited material,
4 right, so that it's not added to the national list.

5 MR. SIDEMAN: That's right. Brian.

6 AUDIENCE MEMBER: I think we should
7 clarify at this point what the petition is and who the
8 petitioner was. The petitioner is George Siemon. The
9 petition was for all amino acids --

10 MR. SIEMON: For me?

11 AUDIENCE MEMBER: -- for livestock
12 production --

13 MR. SIEMON: Was me?

14 AUDIENCE MEMBER: Was you.

15 MR. SIEMON: Oh, Jesus, why didn't
16 somebody tell me?

17 (Laughter)

18 AUDIENCE MEMBER: I'm sorry.

19 MR. MATHEWS: George is red.

20 AUDIENCE MEMBER: I've done things that I
21 have forgotten, too. You know, I think that that
22 petition -- and the petitioner should be addressed so

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1 that we can at least come to closure. I'm not sure if
2 there was a motion approved by this Board that said
3 that amino acids for livestock production needed to be
4 considered on a case-by-case basis.

5 MS. BURTON: We were -- this petition and
6 this Board is reviewing DL methionine only, and that's
7 what we've been discussing for -- and deferred as --

8 AUDIENCE MEMBER: All amino acids in 1999.

9 MR. LOCKERETZ: That's correct.

10 AUDIENCE MEMBER: And that was based upon
11 a '95 petition.

12 AUDIENCE MEMBER: In the '96 review --

13 AUDIENCE MEMBER: Subsequently, the
14 committee instructed to consider only DL methionine.
15 We're not clear if you had formally, you know, made
16 that statement that all the other --

17 AUDIENCE MEMBER: DL methionine was
18 presented as the model amino acid against which all
19 the other amino acids --

20 MR. SIEMON: In '95 all that was put
21 forward was a whole list of names. The word "amino
22 acids" was all that was put forward. Okay.

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1 MS. BURTON: Brian, this material --

2 MR. SIEMON: That's not --

3 MS. BURTON: -- this material was a
4 tabled material. It was one of a number of materials
5 that came back to the livestock committee to
6 recommend, just like the amino acid in processing, if
7 there was a specific amino acid.

8 We requested a TAP for DL methionine
9 only. That's the material that we just voted.
10 That's the material that we're discussing right now,
11 no other amino acids in livestock. Okay? Let's move
12 forward --

13 MR. SIEMON: So do I have a conflict
14 then? I was a technical advisor at that time.

15 MR. SIDEMAN: No.

16 MR. HARPER: No, you don't have one.

17 MR. SIEMON: Okay.

18 MR. MATHEWS: Essentially, all we're
19 voting on is the Board's position that if OGC says no
20 to the annotation, you do not want us to proceed with
21 publishing the material as recommended for addition to
22 the national list.

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1 MS. BURTON: That was the motion that was
2 made.

3 MR. MATHEWS: So you're going to vote
4 either yes or no.

5 MR. SIDEMAN: Rick, what I need to do,
6 because I think I need a clarification.

7 MR. SIEMON: Okay. Yes means prohibited.

8 MR. SIDEMAN: Let me get clarification on
9 this. What I think I'm voting on is that if OGC says
10 we cannot have an annotation I do not want to see
11 methionine on the list without an annotation.

12 MR. MATHEWS: That's what it is.

13 MS. BURTON: Right.

14 MR. SIEMON: So yes means it will become
15 prohibited. No means it will be allowed.

16 MR. LOCKERETZ: Yes means it remains
17 prohibited.

18 MR. SIEMON: Remains prohibited. No
19 means it will be allowed without annotation.

20 MS. BURTON: Okay. Let's go.

21 MR. MATHEWS: All right. Owusu.

22 MR. BANDELE: Yes.

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1 MR. MATHEWS: Carolyn.

2 CHAIR BRICKEY: No.

3 MR. MATHEWS: Kim.

4 MS. BURTON: No.

5 MR. MATHEWS: Dave.

6 MR. CARTER: Yes.

7 MR. MATHEWS: Goldie.

8 MS. CAUGHLIN: Yes.

9 MR. MATHEWS: Becky.

10 MS. GOLDBURG: Yes.

11 MR. MATHEWS: Steve.

12 MR. HARPER: I'm going to abstain for the
13 reason that I think the impact on the industry -- the
14 processing industry is just as substantial as the
15 impact on refining is going to be, or more, and I'm
16 just going to abstain.

17 MR. SIDEMAN: Well, you could probably
18 give us the same courtesy we gave your committee.

19 CHAIR BRICKEY: Let's just --

20 MR. MATHEWS: Mark.

21 MR. KING: Yes.

22 CHAIR BRICKEY: Excuse me. I don't I

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1 voted correctly.

2 MR. SIEMON: Yes, I -- let's go through
3 this again.

4 MR. MATHEWS: Okay. Yes means that you
5 want to prohibit moving forward.

6 CHAIR BRICKEY: Without the annotation.

7 MR. MATHEWS: Without the annotation.

8 CHAIR BRICKEY: Okay.

9 MR. MATHEWS: No means you'll allow it to
10 move forward without the annotation.

11 CHAIR BRICKEY: Okay.

12 MR. MATHEWS: Anybody want to reconsider
13 their vote that's been cast so far?

14 CHAIR BRICKEY: I do.

15 MR. MATHEWS: Carolyn wants to change to
16 yes?

17 CHAIR BRICKEY: Yes.

18 MR. MATHEWS: Okay. Anybody else? All
19 right. Mark.

20 MR. KING: Yes, I would like to prohibit
21 if the annotation does not stand.

22 MR. MATHEWS: Rosie.

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1 MS. KOENIG: I want to abstain.

2 MR. MATHEWS: Willie.

3 MR. LOCKERETZ: Yes.

4 MR. MATHEWS: Jim.

5 MR. RIDDLE: Yes, I abstain because I
6 think we need to get a sunset and bring it back.

7 MR. SIDEMAN: Well, then it could come
8 back if it's a yes.

9 CHAIR BRICKEY: It doesn't get to come
10 back.

11 MR. MATHEWS: We're not supposed to be
12 discussing votes. Eric.

13 MR. SIDEMAN: Yes.

14 MR. MATHEWS: George.

15 MR. SIEMON: No.

16 MR. MATHEWS: Bill.

17 MR. WELSH: No.

18 MR. SIEMON: That doesn't make a bit of
19 sense to me, what we just did.

20 CHAIR BRICKEY: No.

21 MR. SIEMON: You allow it for three
22 years, but we won't allow it for five years, what

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1 we've just done here.

2 MR. LOCKERETZ: No. We won't allow it
3 indefinitely.

4 MR. SIEMON: You won't allow it at all.

5 MR. LOCKERETZ: Now, did we resolve the
6 question of nonorganically grown agricultural material
7 used as feed without the discussing --

8 MS. BURTON: But that was going back to
9 the livestock committee.

10 MR. MATHEWS: Let me -- here's how --
11 eight voted to prohibit the department from moving
12 forward if the Office of General Counsel says that the
13 annotation cannot be added to the recommendation from
14 the Board.

15 Three people voted to allow the
16 department to move forward if OGC does not allow the
17 annotation. So the motion passes. The department
18 will not move forward if OGC says no to the date.
19 Everybody clear on that? Everybody happy with that?

20 MR. SIDEMAN: No.

21 MR. MATHEWS: But the vote was adequate
22 from what is appropriately reported?

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1 MR. SIDEMAN: Yes.

2 MR. MATHEWS: Okay. All right.

3 MS. BURTON: Do we want to do this last
4 material?

5 MS. BURTON: Okay. Let's go.

6 MR. LOCKERETZ: No. I didn't get an
7 answer to my question on whether we had adequately
8 taken care of the proposal to allow the processing
9 nonorganic foods in this --

10 MS. BURTON: I believe we discussed that
11 the livestock committee was going to take that back
12 and make a recommendation to the NOP that that be
13 allowed, and discuss further within that committee. I
14 don't know. We didn't fully discuss it Willie, but it
15 was going back to the livestock committee for further
16 discussion.

17 MR. RIDDLE: Right. And probably not
18 just livestock.

19 MS. BURTON: Right.

20 MR. RIDDLE: But some guidance on and a
21 criteria for the variances, but not just for
22 livestock.

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1 CHAIR BRICKEY: We have one material
2 remaining.

3 MS. BURTON: We have one material
4 remaining, copper sulfate.

5 MR. BANDELE: Yes, copper sulfate. I
6 think the committee members got a pretty good
7 understanding of the petitioner's request for the
8 utilization of this product to control algae in
9 applying to rice fields and also to control tadpole
10 shrimp.

11 The compound is allowed for fungicidal
12 purposes in crop production. Now, at the same time
13 there has been a concern that accumulations of copper
14 with its use. I believe the EU is moving toward
15 eliminating the use of copper in organic production
16 systems.

17 So there is quite a bit of concern in
18 that regard. I would also like to point out that the
19 reason why the delay occurred is because the committee
20 had serious problems resolving this issue based on
21 both reviewing the text and also on the presentations
22 that were made by some of the organic rice farmers

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1 yesterday.

2 Where we stand now is that the committee
3 is recommending use of copper sulfate with
4 annotations. And the annotations are as follows:
5 "Allowed only with documented need as an algicide and
6 for tadpole shrimp control in aquatic rice systems."

7 Also, not to exceed 10 pounds per acre
8 per two-year interval, I think is the last one we had
9 agreed on. And that is based on -- I know oftentimes
10 it -- we are concerned with accumulation.

11 The systems that have been reported, the
12 farmers have stated that in many instances they're
13 only applying once every three years, that there is a
14 fallow system involved for weed control. So they're
15 already saying they're doing this practice, but some
16 of the members wanted to kind of guarantee that that
17 was so. So we put that two-year limitation.

18 And finally, and this is when we --
19 there's some discussion because there's some
20 discussion about its enforceability, but at this point
21 we had included, "used in a manner to minimize
22 accumulations in the soil and discharge from water

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1 systems." So that basically is where we are at this
2 point.

3 MR. SIDEMAN: That last part is what the
4 annotation is now, basically, for the materials.

5 MS. BURTON: Okay.

6 CHAIR BRICKEY: This is something we've
7 discussed in the past, the difficulty with
8 establishing an annotation like that, which is totally
9 unenforceable.

10 MS. BURTON: Right.

11 MR. HARPER: Okay.

12 MR. BANDELE: I had that concern myself,
13 Carolyn.

14 MR. MATHEWS: All right. Can you read
15 the whole thing again, Owusu.

16 MR. BANDELE: Okay. The whole thing is:
17 "Allowed only with documented need as an
18 algicide and for tadpole shrimp control
19 in aquatic rice systems."

20 MR. MATHEWS: Wait a minute, "as an
21 algicide and" --

22 MR. BANDELE: "And for tadpole shrimp

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1 control in aquatic rice systems; not to exceed 10
2 pounds" --

3 MR. MATHEWS: Wait a minute.

4 MR. BANDELE: Okay.

5 MR. MATHEWS: "Tadpole shrimp control in
6 aquatic rice systems." You said semicolon?

7 MR. BANDELE: Right: "Not to exceed 10
8 pounds per acre per two-year interval."

9 MR. SIDEMAN: Owusu, we could really stop
10 there and just say we want to add that to what's on
11 the annotation for that material already in the list,
12 because right now, copper sulfate is with the
13 annotation: "Substance must be used in a manner that
14 minimizes accumulation of saline copper in the soil."

15 MR. MATHEWS: Right.

16 MR. SIDEMAN: So we just want to add to
17 that annotation.

18 MR. MATHEWS: Okay.

19 MR. SIEMON: I don't think we need that.

20 MS. BURTON: Do we have a motion?

21 MS. GOLDBURG: Okay. I want to --

22 MR. BANDELE: Well, actually, no, I don't

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1 think that the current system mentions to be
2 discharged from water systems.

3 MR. MATHEWS: That's right. That's not.
4 All right. Try it again: "Used in a manner to
5 minimize discharge."

6 MR. BANDELE: Accumulation in the soil
7 and discharge from water systems. I guess we should
8 say, accumulation of copper, maybe, to make it clear
9 what we're talking about.

10 MS. BURTON: Mark.

11 MR. KING: Accumulation of copper in the
12 soil?

13 MR. BANDELE: Right.

14 MR. KING: A question concerning, you
15 said tadpole shrimp, right?

16 MR. BANDELE: Right.

17 MR. KING: And not invertebrate pest
18 control.

19 MR. BANDELE: Right, because even -- that
20 was the main problem that was discussed, and again,
21 we're trying to do our limitations on it.

22 MR. KING: Yes.

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1 MR. BANDELE: So as not to -- so other
2 producers may say, we need it for something else. So
3 this is the main problem that was discussed. We're
4 really discouraging over-use and that's why we were
5 very specific about that.

6 MR. KING: Yes. I just wanted
7 clarification.

8 MR. MATHEWS: Okay. Let me run through
9 the last and third, one last time: "Used in a manner
10 to minimize accumulation of copper in the soil and
11 discharge into water"?

12 MR. BANDELE: Yes, into water systems --

13 MS. BURTON: Okay. Steve, you had your
14 hand up.

15 MR. HARPER: I just have a question about
16 the application rate. Is the limitation on
17 application rates still allowed going to be effective
18 for the use that's being annotated?

19 MR. BANDELE: That's the rate that they
20 use.

21 MR. HARPER: So at this point they do use
22 10 pounds per acre when they apply it?

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1 MR. BANDELE: Right.

2 MS. BURTON: Rosie.

3 MS. KOENIG: I really haven't thought
4 about this, but I'm not sure if legally we can say how
5 much of a pesticide can be used. Because it's hereby
6 labeling that particular specific pesticide and it
7 would cause a big problem on the EPA registration when
8 we put those kinds of numbers in. It might change in
9 that law, meaning our law, we'd run into problems. So
10 I think we're just going to have to do it according to
11 labels.

12 MR. LOCKERETZ: But we can put a
13 restriction on how often it's used, when it's used at
14 all.

15 MS. GOLDBURG: That's also label
16 information, actually.

17 MR. LOCKERETZ: No. We want to be more
18 restrictive than that.

19 MS. GOLDBURG: Yes, we'll put the
20 restrict amounts and --

21 MR. SIEMON: Why not use it, as Eric
22 said, what's already in here which says: "Copper

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1 sulfate - substance must be used in a manner that
2 minimizes accumulation of copper in the soil."

3 MR. LOCKERETZ: It's meaningless.

4 MS. KOENIG: Because we don't want it to
5 be used annually.

6 MS. BURTON: Yes. Okay.

7 MR. HARPER: Well, why don't you say
8 exactly what you want.

9 MR. SIEMON: Okay. This is --

10 MR. HARPER: Once every -- no more than
11 once every two years.

12 MS. KOENIG: Because I think that that
13 would be fine. I just think just think --

14 MS. BURTON: So there's a friendly
15 amendment to the annotation, and Rosie, what was your
16 suggestion, to remove the rates?

17 MS. KOENIG: I suggest we remove rates
18 based on just legality problems.

19 MS. BURTON: Okay. So Rick, can you re-
20 read it?

21 MR. MATHEWS: Okay.

22 MR. BANDELE: Not to exceed one

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1 application per two-year period.

2 MS. BURTON: Right. She didn't change
3 that.

4 MR. SIDEMAN: Not to what?

5 MR. BANDELE: Not to exceed one
6 application per two-year period, or a two-year
7 minimum.

8 MS. KOENIG: I didn't get that.

9 MR. SIEMON: I need to hear the whole
10 motion now.

11 MS. BURTON: Right.

12 MR. SIEMON: I've got a comment, but I'd
13 like to hear it.

14 MS. BURTON: Rick, read the annotation.

15 MR. MATHEWS: "Only with documented need"
16 -- let's see -- "only with documented need for" --
17 well, I'm going to take out the "for":

18 "Only with documented need as an algicide
19 and tadpole shrimp control in aquatic
20 rice systems; not to exceed one
21 application per two-year interval; for
22 use in a manner to minimize accumulation

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1 of copper in the soil and discharge into
2 water systems."

3 MS. BURTON: Okay. Becky, you had a hand
4 up.

5 MS. GOLDBURG: Yes. I just wanted to
6 point out that I was the one member of the crop
7 committee to vote against the substance. We all
8 tortured ourselves for a long time about how to handle
9 it. I think just thinking about copper sulfate, it's
10 pretty toxic stuff to a wide range of organisms.

11 I tend to think it should be phased out
12 of organic agriculture in general, and I realize that
13 poses a lot of difficulties. So I would use a phase-,
14 not a ban, but that, you know, I can't be comfortable
15 with endorsing another use of this chemical,
16 particularly one where it's applied by airplane.

17 MS. BURTON: That was said --

18 MS. GOLDBURG: I thought that the
19 chemical was here, too. No? Okay. All right. I
20 apologize for that, then. I misinterpreted what's
21 happening.

22 MS. CAUGHLIN: Would that change your

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1 opinion?

2 MS. GOLDBURG: No, it would not change my
3 opinion.

4 MS. BURTON: George.

5 MR. SIEMON: I'm just concerned about the
6 once -- not two years in a row, because you'd have
7 documented need and this is a water-related phenomena
8 that might be two years in a row and then not for 10
9 years on that same field.

10 MR. BANDELE: According to the rice
11 growers, they're saying that they only deal with the
12 crop one year and then they take a year to fallow.

13 MR. HARPER: That's not exactly what they
14 said.

15 MS. BURTON: Yes. That was my concern
16 because we heard from one rice grower who happened to
17 have several hundred acres that he could rotate. I
18 was just concerned if you're going to affect the whole
19 rice industry based on that every other year
20 limitation. I didn't hear enough evidence that that
21 affects all rice farmers.

22 MR. MATHEWS: Anybody else?

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1 MR. BANDELE: That was also in the review
2 information, as well, though. Yes.

3 MS. BURTON: Okay.

4 MR. SIDEMAN: Okay. I don't know.
5 Anybody know about rice?

6 AUDIENCE MEMBER: Yes, a little bit.

7 MR. SIDEMAN: Okay.

8 CHAIR BRICKEY: Come up here.

9 AUDIENCE MEMBER: California rice
10 production --

11 MS. BURTON: What?

12 AUDIENCE MEMBER: It is not --

13 CHAIR BRICKEY: We can't hear you.

14 MS. CAUGHLIN: That sound is terrible.

15 AUDIENCE MEMBER: California rice
16 production to control weeds, field or fallow every
17 other year. This is in California now, right. We are
18 seeing some differences in rice. In Florida, for
19 example, they're trying to work sugarcane in with rice
20 production, but in California you must fallow your
21 field every other year.

22 So by -- saying it's a three-year cycle,

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1 it truly is because that field that they planted that
2 rice on in 1999 will be fallow in 2000, for sure.

3 MS. BURTON: Lynne, did you have a --

4 AUDIENCE MEMBER: I'm concerned that the
5 one application every two-year period unclearly
6 applies either to the grower himself to the farm plant
7 or that particular field. It's rotating around. You
8 want to be able to --

9 MR. SIDEMAN: It should be one
10 application per field.

11 MR. BANDELE: Yes, per field.

12 MR. SIEMON: Per field.

13 MR. BANDELE: Yes, it's supposed to be
14 per field. I'm sorry.

15 MS. CAUGHLIN: All right.

16 MS. BURTON: Okay. So Rick, do we have a
17 friendly amendment to the annotation? You accept it.

18 Did you catch that, Rick, per field?

19 MR. MATHEWS: Per field.

20 MS. CAUGHLIN: But per field is --

21 MR. MATHEWS: Per two-year interval.

22 MS. CAUGHLIN: Don't you mean field of

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1 one acre, because that's --

2 ALL MEMBERS: No. No. No.

3 MS. BURTON: In their handling plans they
4 should have their fields designated separately. Okay.

5 MR. MATHEWS: "Not to exceed one
6 application per field, per two-year increment."

7 MS. BURTON: Now, motion was made?

8 MR. HARPER: I don't think so.

9 MR. LOCKERETZ: There's no way to, quote,
10 minimize the available copper into the soil and the
11 water. So the copper goes either into the soil or the
12 water. That's absolutely noted by the reviewer,
13 copper is an element that cannot be changed. And so
14 that's kind of -- yesterday, we were asking people,
15 "Well, doesn't that lead to build-up of copper in the
16 soil. They said, oh, no, it goes out in the water.
17 And then when we asked, "doesn't it lead to toxic
18 levels in the water?" Oh, no, it's directly down to
19 the soil. Oh, no -- back to the soil.

20 MS. BURTON: Do you have a suggestion?

21 MR. LOCKERETZ: My suggestion is that
22 that language is meaningless.

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1 MS. BURTON: Okay.

2 MR. LOCKERETZ: And that we've definitely
3 affected one by requiring that the restrictions on
4 applications be considered.

5 MS. BURTON: Eric.

6 MR. SIDEMAN: I would -- there's one way
7 that we can manage it and that is just what you're
8 saying, to use it less frequently, and that's where we
9 would get at.

10 MR. LOCKERETZ: So the way to do that is
11 by putting in frequency restrictions, rather than --

12 MR. SIDEMAN: We couldn't come up with
13 the right language for it because, in other words, we
14 would want people only to use it when they really
15 needed it, which may be two years or every other year,
16 if they're bad weather years in a row.

17 MR. LOCKERETZ: The way to minimize it.

18 MR. SIDEMAN: I'm thinking somebody could
19 use it less frequently and then not use it again for
20 10 years if there was no really bad weather. But we
21 couldn't come up with the right language for that.

22 MR. BANDELE: But we did, though, because

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1 they're saying two years. So there is language.

2 MR. SIDEMAN: But two years --

3 MS. BURTON: Okay. We have a motion on
4 the floor. Owusu, I can't remember if it was
5 seconded. Sorry. I don't believe it was. Okay.

6 CHAIR BRICKEY: Not yet.

7 MR. SIDEMAN: So we're keeping all three
8 parts to the annotation.

9 MS. BURTON: Nobody's recommended two.

10 CHAIR BRICKEY: We don't need to vote
11 whether it's synthetic, do we?

12 MS. BURTON: Rosie?

13 MS. KOENIG: I suggest that we just put
14 the one application per two years and drop the -- I
15 think it's redundant, I do, really.

16 MS. BURTON: Okay.

17 MR. SIDEMAN: But I think that using in a
18 manner to reduce accumulation, that would mean that you
19 have to use it less frequently than once every two
20 years.

21 MS. KOENIG: Yes, but I mean, that's
22 assuming and I think we cannot assume, or they're not

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1 going to use it unless they need it.

2 MR. SIDEMAN: So we want that language in
3 there to tell them that we want --

4 MR. MATHEWS: We have an unfriendly
5 amendment proposed to the annotation.

6 MS. BURTON: Right.

7 MR. MATHEWS: So what we should do is
8 what we've done all along. We look at that
9 annotation. We vote on it. It's either yes or no.

10 MR. SIDEMAN: Can I make one point,
11 please.

12 MR. MATHEWS: Yes. Okay.

13 MR. SIDEMAN: The point is that the part
14 of the annotation they want to remove is exactly in
15 the Rule now.

16 MR. MATHEWS: Fine. They are proposing a
17 whole new annotation. It's just like Owusu is
18 proposing an annotation which is different from what's
19 in there. Even that part three is different from what
20 is already in there. So this -- the original motion
21 is a completely new annotation.

22 MR. SIDEMAN: And then it becomes really

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1 complicated because the motion that -- the first part
2 of the motion only addresses using rice, and we have
3 it here to use for disease and that -- the earlier
4 part of the motion doesn't make any sense --

5 MR. SIEMON: You've got to find out, the
6 two parts of the law, what we're passing now, because
7 one is at the --

8 AUDIENCE MEMBER: You're not thinking
9 about taking away copper sulfate --

10 MS. KOENIG: No. No. No.

11 MS. BURTON: Okay.

12 MR. LOCKERETZ: No. No.

13 MR. SIDEMAN: But they are thinking about
14 changing the adaptation, and I don't know what's going
15 to limit the use --

16 MS. BURTON: Would the committee like to
17 take back the drafted language so that we can vote
18 properly tomorrow, because we're just going in
19 circles. We shouldn't be drafting language here at
20 the table.

21 CHAIR BRICKEY: Well, I think that --

22 MS. BURTON: Okay.

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1 MR. LOCKERETZ: I wasn't trying to -- I
2 was simply saying I didn't really like the language.

3 MS. BURTON: Okay.

4 MR. LOCKERETZ: And I explained why, but
5 I'm not supposing --

6 CHAIR BRICKEY: So there is no
7 amendment --

8 MS. BURTON: Then Rosie made a friendly
9 amendment to actually remove --

10 MS. KOENIG: No, but I understand what
11 they're saying now. So the fact that -- let me
12 clarify. The fact that it's in the Rule under plant
13 disease control that says minimize, that we don't need
14 to put it in again with this annotation, that we would
15 just have to specify the rate.

16 MR. LOCKERETZ: Frequency.

17 MS. KOENIG: Frequency --

18 MR. MATHEWS: Copper sulfites -- or
19 copper sulfate currently has the annotation that says:
20 "Substance must be used in a manner that minimizes
21 accumulation of copper in the soil," as it reads
22 before, now; extension with a period after soil.

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1 MR. SIEMON: I'm going to add the plant
2 disease control section, is what I'm saying, under I.

3 MR. MATHEWS: Okay.

4 MR. SIEMON: And we're getting involved
5 in a lot of letters here, more than one letter here.

6 MS. BURTON: So the current annotation
7 reads, the recommended annotation reads, Rick.

8 MR. MATHEWS: The current recommended
9 annotation for copper sulfate in a different use is:

10 "Only with documented need as an algicide
11 and tadpole shrimp control in aquatic
12 life systems; not to exceed one
13 application per field per two-year
14 interval, used in a manner to minimize
15 accumulation of copper in the soil and
16 discharge into water systems."

17 MS. BURTON: We have a motion on the
18 floor and it has not been seconded.

19 MS. KOENIG: I'll second it.

20 MS. BURTON: Okay. Discussion. Okay.
21 Call for the vote. We do not need to vote whether
22 this is a synthetic or natural. It's already on the

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1 list.

2 MR. MATHEWS: All right. Owusu.

3 MR. BANDELE: Approved.

4 MR. MATHEWS: Carol.

5 CHAIR BRICKEY: No.

6 MR. MATHEWS: Kim.

7 MS. BURTON: Approve.

8 MR. MATHEWS: Dave.

9 MR. CARTER: Approve.

10 MR. MATHEWS: Goldie.

11 MS. CAUGHLIN: Approved.

12 MR. MATHEWS: Becky.

13 MS. GOLDBURG: No.

14 MR. MATHEWS: Steve.

15 MR. HARPER: Approve.

16 MR. MATHEWS: Mark.

17 MR. KING: Approve.

18 MR. MATHEWS: Rosie.

19 MS. KOENIG: Approve.

20 MR. MATHEWS: Willie.

21 MR. LOCKERETZ: Abstain.

22 MR. MATHEWS: Jim.

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1 MR. RIDDLE: No.

2 MR. MATHEWS: Eric.

3 MR. SIDEMAN: Approve with annotation.

4 MR. MATHEWS: George.

5 MR. SIEMON: Approve.

6 MR. MATHEWS: Bill.

7 MR. WELSH: Approve with annotation.

8 MR. MATHEWS: The motion passes, 10
9 approve, three prohibit, one abstain.

10 MS. BURTON: Make sure your forms are
11 signed. On some of --

12 MR. MATHEWS: We do have one piece of
13 -- business from earlier today. It's the calcium
14 chloride. I would like to point out that we went back
15 and we did a vote on -- wasn't it calcium chloride?

16 MS. BURTON: It was nonbrine calcium
17 chloride --

18 MR. MATHEWS: -- all nonbrine processes.
19 We've decided that that was synthetic. I'd like to
20 point out that if you don't vote to either approve or
21 disapprove, it's subject to petition in the future.
22 You don't have a decision other than to say that

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1 that's synthetic. Again, you haven't ruled on whether
2 to approve or disallow.

3 MS. BURTON: The synthetic forms,
4 correct.

5 MR. SIEMON: And we could say disallow
6 for all other purposes is what you're saying we should
7 do?

8 MR. MATHEWS: Well, what you've already
9 done is you've said that the brine --

10 MS. BURTON: Nonbrine calcium chloride
11 synthetic. We've agreed that it's synthetic. We've
12 not approved or prohibited it.

13 MR. BANDELE: But I think that because it
14 was a fertilizer and synthetic, then it automatically
15 would not be prohibited.

16 MR. SIDEMAN: Would not be prohibited.

17 MR. KING: Yes.

18 MR. MATHEWS: So you're saying that it's
19 fertilizer? Okay. Okay.

20 MS. BURTON: Okay.

21 MR. MATHEWS: But what about the foliar
22 application that we talked about before?

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1 MS. BURTON: If we -- if this Board votes
2 to either approve or prohibit, then we'd clean it up.

3 But I would suggest that we move forward and vote on
4 this material. We've already voted as a synthetic and
5 we vote to allow or to prohibit this material from the
6 national list, as well.

7 MR. RIDDLE: The synthetic forms of
8 calcium chloride.

9 MS. BURTON: Correct; correct.

10 MR. HARPER: I second that.

11 MR. MATHEWS: Okay.

12 MS. BURTON: Rosie, what we did was we
13 did vote on the natural, non -- or brine process
14 calcium chloride and we followed that through. Then
15 we came back and voted the nonbrine calcium chloride
16 as a synthetic and then we didn't do any further work
17 on it.

18 MS. KOENIG: Okay.

19 MS. BURTON: Rick is wanting
20 clarification now to further it.

21 MS. KOENIG: Okay.

22 MR. MATHEWS: Now, since you're saying

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1 that it is a synthetic, I mean, would you vote it --
2 you should be voting either to add it to the list or
3 not add it to the list.

4 MS. BURTON: Correct.

5 MR. MATHEWS: So if you're voting to add
6 it to the list, you're approving. If you're voting
7 not to add it to the list, you're voting to prohibit.
8 Okay. Are we ready to vote?

9 MS. BURTON: We're ready to vote.

10 MR. MATHEWS: Okay. Owusu.

11 MR. BANDELE: Prohibit.

12 MR. MATHEWS: Carolyn.

13 CHAIR BRICKEY: Prohibit.

14 MR. MATHEWS: Kim.

15 MS. BURTON: Prohibit.

16 MR. MATHEWS: Dave.

17 MR. CARTER: Prohibit.

18 MR. MATHEWS: Goldie.

19 MS. CAUGHLIN: Prohibit.

20 MR. MATHEWS: Becky.

21 MS. GOLDBURG: Prohibit.

22 MR. MATHEWS: Steve.

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1 MR. HARPER: Prohibit.

2 MR. MATHEWS: Mark.

3 MR. KING: Prohibit.

4 MR. MATHEWS: Rosie.

5 MS. KOENIG: Prohibit.

6 MR. MATHEWS: Willie.

7 MR. LOCKERETZ: Prohibit.

8 MR. MATHEWS: Jim.

9 MR. RIDDLE: Prohibit.

10 MR. MATHEWS: Eric.

11 MR. SIDEMAN: Prohibit.

12 MR. MATHEWS: George.

13 MR. SIEMON: Prohibit.

14 MR. MATHEWS: Bill.

15 MR. WELSH: Prohibit.

16 MR. MATHEWS: Okay.

17 MS. KOENIG: Let me just be clear.

18 Because I looked back as I am voting and I saw that I
19 had brine as prohibited, and I think this is clear to
20 me now, but I wanted to clarify. We voted that it was
21 a prohibited natural with the allowance of using it as
22 a foliar spray and that was all.

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1 MR. MATHEWS: Yes.

2 MS. KOENIG: Okay.

3 MR. MATHEWS: But now, you've just voted
4 to prohibit the synthetic.

5 MS. BURTON: Again, make sure your name's
6 on the front and the back of these forms. If you
7 could pass all your forms down to this end of the
8 table and -- them.

9 MR. RIDDLE: Yes. I have just what you
10 would like is some more paper, but we talked about
11 earlier some drafts that we're getting copied. So
12 there are the three drafts. One is the transitional
13 product capturing the language that was discussed
14 yesterday.

15 And so I'll pass those around. And there
16 are I think a few extra copies for the audience. And
17 then the other is the aquaculture standards, and this
18 is what we'll be voting on as a final recommendation
19 tomorrow. So the changes that we discussed have been
20 incorporated there.

21 And the third item is brand new. When we
22 talked yesterday, I think it was Owusu and I were

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1 directed to do a little drafting as a first step on
2 how to capture the sectors not covered by the Rule,
3 but where the NOSB has made a recommendation and their
4 labeling status.

5 So there's just a first draft really for
6 circulation purposes here, and that. So that's it.
7 So only the one will be coming for a vote tomorrow,
8 and that's the aquaculture draft. The others are
9 really for discussion purposes and posting to the web
10 on transition and internal discussion on this other
11 item.

12 MR. SIDEMAN: And coming around from crop
13 committee is the revised mushroom proposal that we
14 will be voting on tomorrow.

15 CHAIR BRICKEY: Now, tomorrow, we'll
16 begin again at 8:00 o'clock. We've allocated two
17 hours for public comment. I urge people to get a
18 piece of paper from Kathryn and sign up tonight if
19 they're here and want to make comments, so we can get
20 some assessments.

21 Please be judicious about it. We're
22 going to only allow five minutes so we can get through

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1 our agenda for tomorrow. And -- pardon? We're going
2 to have a presentation from Dr. Post at FSIS, and will
3 be there any further business from the materials
4 reviewed?

5 We are concluded. All right. That gives
6 us some extra time. We will go over each chair's work
7 plan that he or she was completed with the members of
8 his committee or her committee, and then we will move
9 to election of chair and vice-chair.

10 This will be a personal ballot and not be
11 a voice vote or anything like that for people.

12 MR. RIDDLE: We're going to have them
13 written down?

14 CHAIR BRICKEY: Yes. We are concluded
15 for the day, unless there's objection. Hearing none,
16 we are adjourned for the day.

17 (Whereupon, the NOSB Meeting of the USDA
18 was adjourned at 5:39 p.m.)
19
20
21

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